

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2659 SLC SB 494 (FILE 1) - (FILE 3)

2659

remarked 'maybe in another location,' as he handed us a cheap telephone, and showed us to an exit outside the area involving other possible clients."

We have had complaints from consumers who received solicitations, arrived at the sales offices, and then were told that they were not qualified and could not receive a prize. They were turned down because they were too old, did not have a major credit card, were without a spouse, or were too young. These consumers were not told ahead of time that they would not qualify.

We have received reports, inquiries and complaints about timeshares located within this state but not sold by on-site visits. These areas of concern include complaints about

being kept waiting, not actually receiving any prize that was promised, and misrepresentations made about exchange programs.

Again quoting from affidavits of consumers.

"I realize that I was attending a sales promotion for timeshare condominiums. I sat around for at least an hour waiting for my 'orientation.' They had screwed up their schedule, and tried to get everybody to schedule for later, or to wait, but everyone wanted to have their orientation then. I was picked last because I was single.

At that time I sold the salesperson that I wanted my 'vacation' [within the State of Alaska] because it was close, and I would not have to pay large transportation

costs. The salesperson told me that I had a very low chance of getting my free vacation [within the State of Alaska]. I asked him how low my chance was, and he said that it was zero.

At that time I left the location of the sales promotion. I did not receive a free vacation."

Another consumer who completed an affidavit describes the misrepresentations that were made concerning an exchange program. The major exchange programs' brochures and contracts clearly disclose that consumers should never buy timeshares with the expectation that they will be able to exchange them for timeshares located elsewhere. Persons with top quality timeshares in favorite resorts at a favorite time of the year, such as a beach front Hawaii resort with all amenities from

January 1 thru January 15, may well be able to use exchange programs to take a vacation in another timeshare in another location. Those persons who purchase a week at a timeshare located within Alaska during the wintertime, or at a lake in South Dakota in January, are unlikely to ever be able to exchange their timeshares for a desirable Hawaii or Mexico or another popular resort area vacation.

One consumer describes the representations that were made in the sale of a timeshare.

"She also explained that I could 'trade' my week purchased at the resort near [Alaska location] for vacation time in another resort in a location like Hawaii. I explained that I was not interested in a timeshare in [Alaska], but that I was interested in

something that I could trade for vacations in other locations. . . . The second time she came over to our home, [salesperson] was very insistent. She exhibited a great deal of high-pressure in her sales tactics . . .

I asked if she was sure that I would be able to trade my [Alaska location] unit for vacations in other locations in the country, and she said there would be no problem. Later, when I asked for reassurances that I would be guaranteed the possibility of trading my vacation unit for a vacation unit someplace else, she said that I would be put on a list. Prior to her leaving our home, the salesperson loaned a book describing different timeshare locations throughout the country and exchange privileges to my wife. When my wife started to read the book, she found a statement in the book that said that one should not buy a timeshare

unit for exchanging purposes. My wife then called [the salesperson] and explained to her that I had told her that I was interested in buying a timeshare for exchange purposes, but that the booklet that she gave to us to look at explained that timeshares should not be purchased for exchanging purposes. The [salesperson] then explained to my wife over the telephone that that particular clause in the literature didn't apply to the timeshare that they were selling; that it applied to other timeshares. . . . About 20 minutes later the manager called us back. At that time my wife explained to him that she had placed a 'stop payment' order on the downpayment check which we had given [the salesperson] during our second visit with us. The manager was upset when my wife told him this, and the manager said that [the salesperson] should

never have given us the book to read regarding timeshare locations and exchanges."

From other consumers concerning their promise of a free vacation:

"But he never received a free vacation."

"I never did receive a free trip from them."

"When I inquired about my free trip, I was given a 'V.I.P.' brochure. This brochure said that I could be entitled to lodging at certain locations if I met certain restrictions, such as paying my own transportation, paying certain fees, and attending sales seminars at the city that I travel to. This is

not at all what I had expected the free vacation to
be."

SHORTEST TITLE: CS02 494(L&C)
AN ACT RELATING TO THE SALE OF TIME SHARE PROGRAMS FOR
LEASE, OCCUPANCY, OR POSSESSION OF RESIDENTIAL PROPERTY,
EXTENDING THE REAL ESTATE COMMISSION'S AUTHORITY TO ADOPT
REGULATIONS, AND PROVIDING FOR AN EFFECTIVE DATE
PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:
CURRENT STATUS: 5/28/84 IN (H) LABOR & COM REFERRAL: FINANCE

DATE	SEQ	PAGE	LEGISLATIVE ACTION
12/14/84	01	2068	FIRST READING -- COMMITTEE REPORTS
12/14/84	02	2068	F/NOTE SEN SUPPL #53
12/14/84	03	2068	F/NOTE W/ANALYSIS EQUALS ZERO
12/14/84	04	2069	GOV TRANSMITTAL LETTER
05/10/84	05	3005	L&C -- CS02, NR01
05/28/84	06	3325	RLS -- L&C CS05, OTHER05 TAKEN UP IMMEDIATELY
05/28/84	07	3328	SECOND READING
05/28/84	08	3328	L&C CS ADOPTED BY UNAN CONSENT
05/28/84	09	3328	ADVANCED TO 3RD READING BY UNAN CONSENT
05/28/84	10	3328	THIRD READING
05/28/84	11	3328	PASSED BY DIV 16-02-02
05/28/84	12	3328	EFFECTIVE DATE VOTE SAME AS PASSAGE
***	***	***	***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/28/84	13	4118	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE FINANCE RULES
***	***	***	***

COMMITTEE REPORT

SENATE

FURTHER:

5/24/74

Date

5/3/74

Mr. President

The Committee on LABOR AND COMMERCE considered SI 494

sale of time share program for use, occupancy, or possession of residential property; amending the Real Estate Commission's authority to adopt regulations; and.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SI 474
- new title
- same title and recommends to pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

H. J. ...

Chairman

Do pass
Chairman recommendation

MSG B4-00041695 PRTY 1 05/03/84 14:57:25 ORIG: L103 IN= 0005 OUT= 0040
FROM: ANCHORAGE TO: KEN/FINAL STATS
TARGET: LJHV SUBJ: (S) LABOR & COMMERCE T/C, 5/3

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

DATE: MAY 3
SITE: ANCHORAGE
SPONSOR/SUBJECT: (S) LABOR & COMMERCE, SB 494, CSSB 316

..9...TESTIFIED *****T/C STARTED: 1:30
..3...OBSERVED *****T/C ENDED: 2:30
.12...TOTAL

TESTIFIED SB 494

1. JOHN HANSEN, ATTORNEY, 330 L STREET, 278-4573
2. CONNIE SIPE, DEPT. OF LAW, 278-1317

TESTIFY CSSB 316

1. MONTE ENGEL/AK LEGAL SERVICES CORP., 550 W. 8TH AVE, SUITE 200
272-9431
2. MAUREEN KENNEDY/AKPIRG, P.O. BOX 1093, 99510 278-3661
3. BENNIE BARKER, 3700 CARLETON, 248-7233
4. GEORGE C. MACKENZIE, 3700 CARLETON, 248-7233
5. TOM BEGICH, 1414 KARLUK, 333-6898
6. MARY RATCLIFF, 835 NELCHINA, 99501, 277-3733
7. MARY MCKINNON/COPE, 2203 W. 46TH AVE., 248-3727

OBSERVE

1. KRISTI BYRD, SEN. JOSEPHSON OFFICE, 276-4377
2. SHIRLEY NELSON, 601 E. NORTHERN LIGHTS, BOX 353, 276-6450
3. ROBIN SMITH, 4128 ROLLINS DRIVE, 338-1424

SIGN-IN SHEET

Proposed Legislation SB 494

Name (please print)	Address	Representing	Testify?? (YES or NO)	Phone Number
CONNIE J. SIPE	1031 W. 4 th Anchorage	Dept of Law	Yes	279-028
Wayne Palmer	301 Danner # 260 Anch.	Network Leisure Skippers	Yes	344-1551
James Scott	1600 E. Tudor Anch.	NETWORK Leisure Skippers	yes.	563-3945
John Hansen	(would like to testify - I think)			

SENATE LABOR AND COMMERCE COMMITTEE

HEARING DATE 4/24/84

Time Share Legislation

SB 494

CSSB 494 (L & C) REGULATES THE SALE OF TIME SHARES, A RAPIDLY GROWING NEW ADDITION TO THE REAL ESTATE INDUSTRY. THE MOST COMMON TIME SHARE OFFER IS TO SELL FOR A ONE-TO-TWO WEEK PERIOD THE USE OF A VACATION "HOME" IN A POPULAR VACATION SPOT TO INDIVIDUALS. FOR EXAMPLE, A PERSON WOULD "OWN" PERIODS OF TWO WEEKS OF TIME IN AN APARTMENT ON THE BEACH IN HAWAII.

THIS LEGISLATION REQUIRES THE REAL ESTATE COMMISSION TO SET UP REGISTRATION REQUIREMENTS FOR ALL TIME SHARES OFFERED IN THE STATE, REGARDLESS OF WHETHER THE PROPERTY IS LOCATED IN THE STATE. IN ADDITION, A TIME SHARE OFFER MADE IN THIS STATE MUST BE MADE THROUGH A REAL ESTATE BROKER, LICENSED IN ALASKA.

A 10-DAY "COOLING -OFF" PERIOD FOR A PURCHASER TO CANCEL THE TIME SHARE SALE HAS BEEN INCLUDED IN THIS LEGISLATION. THE TEN DAYS WILL ALLOW A PURCHASER TIME TO FULLY REVIEW WRITTEN MATERIALS, CONSULT AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, AND INVESTIGATE REPRESENTATIONS MADE DURING THE TIME SHARE PRESENTATION. DURING THIS PERIOD OF TIME, THE OFFEROR WILL HOLD THE PURCHASER'S DEPOSIT IN ESCROW.

THE SENATE LABOR AND COMMERCE COMMITTEE HELD SEVERAL HEARINGS ON SB 494 AND HEARD TESTIMONY FROM THOSE CONCERNED.

THE MAJOR OBJECTIONS TO THE ORIGINAL BILL HAVE BEEN ADDRESSED AND CSSB 494 (L & C) HAS THE SUPPORT OF THE DEPARTMENT OF LAW, CONSUMER PROTECTION, AND INDIVIDUALS WHO ARE CURRENTLY OFFERING TIME-SHARE SALES. I RECOMMEND PASSAGE OF THIS LEGISLATION.

ADDITIONAL INFORMATION

1) PERSONS SELLING TIME SHARES ARE REQUIRED TO DISCLOSE IN WRITING SIGNIFICANT FACTS ABOUT THE OFFER TO POTENTIAL PURCHASERS.

2) IF AN INDIVIDUAL RESIDES IN THE TIME-SHARE UNIT, THE CANCELLATION PERIOD ENDS TWO DAYS AFTER THE PURCHASER TAKES UP RESIDENCY IN THE PURCHASED TIME SHARE UNIT.

3) ENFORCEMENT POWERS FOR THIS LEGISLATION IS IDENTICAL TO THE ENFORCEMENT POWERS IN THE CONSUMER PROTECTION ACT.

4) THE REAL ESTATE COMMISSION MAY REQUIRE ADDITIONAL SURETY FUND FEES TO COVER INCREASED LIABILITY.

Testimony Provided Via Telephone 4/12/84

Wayne Palmer, 344-1551 (wk) or 243-1912 (hm), telephoned April 12, 1984 to express his opposition to portions of SB 494 - "An Act relating to the sale of time share programs."

Mr. Palmer's main concerns center around the following provisions of this legislation:

1) The purchaser can cancel the time share purchase within 15 days after the sale.

Mr. Palmer - This clause discriminates against agents who sell time share programs. Similar conditions are not placed on the sale of other real property.

2) The offering of prizes, gifts, and other inducements to encourage a person to attend a meeting at which a time share will be discussed is prohibited.

Mr. Palmer - If this prohibition is applied to the sale of time shares, it also should apply to travel agents, airlines, stores, i.e. all business ventures.

3) The purchaser's payment will be kept in an escrow account for 25 days.

Mr. Palmer - This provision of SB 494 places a financial burden on individuals who sell time shares and is unfair.

TESTIMONY TAKEN VIA PHONE ON SB 494

This bill would provide for regulation of those entities whose business purpose is the sale of time share interest in real property within the State of Alaska. It requires that an individual selling such interest be a licensed real estate agent operating through a broker or associated broker. The bill would enact certain consumer protection provisions and impose certain statutory controls on the operations of organizations marketing time share interest.

We applaud the Governor and the Legislature for seeking legislation of this type. We support passage of this legislation. However, we would ask that certain of the provisions as currently drafted be altered in order to improve the legislation.

The bill's purpose is commendable: regulation of an industry which has a significant impact on consumers is valuable. It is valuable both to the consumer and to the legitimate business interest with whom consumers deal.

We are in agreement with the bill's provision to impose a licensing requirement of sales of time shares projects. We concur in the requirement that certain standards of conduct and professional ethics be made of those who would sell time share interests. We support placement of oversight authority with the State Real Estate Commission and the provision of promulgation of regulations to implement the legislation.

We support the requirement that consumers entering into a time share agreement be given full disclosures before consumation of the contract. Not only does this requirement benefit those contemplating purchase of a time share interest, but also benefits the organization marketing those interests. A well informed buyer is a more satisfied buyer and a more credible reference.

There are three elements in the proposed legislation which do cause some concern and which we recommend be amended in order to improve the bill and its effectiveness and fairness.

The first of these recommended changes is to reduce the period during which a purchaser of a time share interest has a right of decision from the 15 days proposed to 3 days. Consumers entering into the purchase of real property under more usual circumstances now have a mandatory 3 day right to revoke the contract. Considering that these purchases involve usually a much more significant amount of money and a vastly greater potential of harm to the consumer, we fail to see the rationale for requiring a 5 fold increase in the recision period. Not only is the purchase of a time share interest a transaction involving a much lower sum of money. it is usually made by a relatively more sophisticated consumer making a purchase with far less pressure than one purchasing a family home, for instance. We recommend that the period be amended to a 3 day "cooling off period".

The second recommendation follows the first. To require such a lengthy escrow period severely handicaps an organization marketing time share interests. There is no need for a 25 day escrow period even if the 15 day cooling off period is retained. If that period is reduced to the 3 day period recommended above, the escrow period should be reduced to a suitable level as well.

We fail to understand why an organization marketing time shares should be precluded from using reasonable marketing tactics in order to place its "products" before the public. The provision in the legislation which forbids the use of raffles, lotteries, or gifts to attract potential buyers appears to be discriminatory. There is a vast array of businesses that use premiums, gifts, or contests to attract consumers. From a free hotdog given at a car dealer's operation to raffles staged by shopping malls, the use of a "gift" or "prize" is a standard marketing tactic. To prevent only those marketing time share interests from using this technique seems to single out one industry, for a purpose we fail to perceive. We agree that the use of such attractions must be in a

forthright and legitimate manner. We agree that no fraudulent techniques or shows should be used. There are, however, significant consumer protections to assure that fraud is not permitted and halted whenever discovered.

The State of Alaska spends considerable amounts of money and resources annually attempting to attract tourists to the state. We fully agree with the purpose of these expenditures. If tourism is to be encouraged, we maintain that those organizations and individuals who would provide services and facilities to tourists should be encouraged as well. Time share projects provide marvelous opportunities for those visiting Alaska to obtain maximum enjoyment for their vacation dollar. Not only is tourism encouraged by the availability of time share projects, but those who chose to purchase a time share interest come back to the state year after year. Severely restricting development of a modern and viable segment of the industry, that is offerors of time share projects, runs counter to the state's purpose in attracting tourism.

The success of one time share project will necessarily encourage others to enter into such projects. These types of development have significant positive impact on both local and state economies. Construction and service industries are enhanced; employment opportunities are created; local business of all kinds enjoy the fruits of success.

Once again, we support legislation of this type. We only ask for reasonable and fair treatment under the bill and ask that you consider the proposal we have made for improvement of the bill.

Thank you for your consideration.

Bill Lange, developer of Brigantine Bay Time Share Project.

4/24/85

Resort
Condominiums
International

International Headquarters:
9333 North Meridian Street
P.O. Box 80229
Indianapolis, Indiana 46280-0229
317-846-4724
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January 19, 1984

John T. Hansen, Esq.
330 "L" Street
Anchorage, Alaska 99501

Dear John:

I apologize for the delay in following up on our telephone conversation last week; however, I have been ill and out of the office. I very much enjoyed the opportunity to speak with you concerning proposed legislation to regulate real estate timesharing in the State of Alaska. I thank you for your January 9, 1984 letter, together with its enclosures of the Alaska Horizontal Regimes Act and the proposed timesharing legislation.

There are several portions of the proposed timesharing legislation to which I would expect developers and marketers to have objection.

1. Rescission Period. Sections 45.50.640(7) and 45.50.645 provides for a 15 calendar day period in which a purchaser may "...cancel the timeshare instrument once the executed instrument has been delivered or received by the purchaser." In the experience of the industry, most rescissions occur within 3 days (72 hours) of purchase. The NTC Model Act (a copy of which I have enclosed) provides for a 5 day rescission period and this period, in the estimation of the industry, strikes a reasonable balance between the consumers right to cancel the transaction and the developer or marketer's certainty as to whether a sale has in fact been made. The five day rescission period proposed by the NTC Model Act is contained in existing timeshare legislation in the following states: Nevada, Tennessee, Virginia, Alabama (unless 5th day falls on a Sunday), Arkansas, Louisiana, North Carolina (effective July 1, 1984). I enclose for your consideration the Nevada legislation



Member—
American Society of Travel Agents
American Hotel & Motel Association
National Timesharing Council of A.L.D.A.

John T. Hansen, Esq.

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January 19, 1984

which is, in my estimation a good first generation statute (unlike the Model Act, which is too extensive and cumbersome).

2. Exchange Programs. Sec. 45.50.640(13) only touches upon the offering of an exchange program in conjunction with the sale of a timesharing interest. Industry sponsored surveys establish that the availability of an exchange program is a material part of an individual's decision to purchase. For this reason, I would suggest that the present draft be expanded to include all of the exchange program information set out in the Nevada legislation. By so doing, the interest of consumers is better protected and consumers are better informed concerning what an exchange program can and cannot provide. By incorporating the exchange provisions of the Nevada Act, both exchange companies and developers/marketers will be better protected, and developers less likely to be found in violation of Sec. 45.50.642(9) (misrepresentation of the exchange program to purchasers). I would also note that the proposed legislation does not define the term "exchange program" in Sec. 45.50.660 "DEFINITIONS".
3. Private and Class Actions. Sec. 45.50.653(a) sweeps very broadly and imposes joint and several liability "[I]f the time share offeror or a director, or agent of or for the time share offeror has personally participated or aided in any way in making the sale, transfer, or solicitation." This language could be construed to bring within its scope any advertising entity (no exclusion is provided for newspapers, magazines and the like which may merely carry ads), any lead generation entity (such activity could certainly be construed as "solicitation"), or any independent entity operating a timeshare exchange program since both the timeshare interest and exchange program are presented at point of sale. This provision would also seem to encompass liability both in contract and in tort, based upon the broad language used.
4. Statutory or Common Law Remedies. It is unclear what meaning is intended for the term "exchange" as used in Sec. 45.50.655; does it seek to encompass the exchange of title, the exchange of a possessory right (such as is accomplished through participation in an exchange program), or both. Again, a definition of "exchange program" would clarify this matter.

John T. Hansen, Esq.

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January 19, 1984

5. Definitions. Section 45.50.660 - Please see my discussion above. I would also suggest, purely for organizational clarity, that the definition section appear at the beginning of the act rather than at the end.

As a final matter, I would note that this proposed legislation does not specifically authorize this form of real property ownership, nor does it define the incidents of fee and right-to-use timeshare interests (e.g. waiver of partition, is right-to-use a real property interest or merely a contractual right?)

After you have had the opportunity to review this letter and its enclosures, please feel free to contact me. As I indicated when we spoke, I am happy to be of whatever additional assistance you may deem appropriate.

Sincerely yours,

Rick Choate

M. Rickliffe Choate II
Corporate Counsel

MRC/rjb

Enclosures

Brigantine Bay



March 23, 1984

Senator Richard I. Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I'm writing this letter over my concern of the upcoming proposed legislation in regards to timesharing. As the developer of the only timeshare project in the State of Alaska, I would like you to consider my views prior to casting your vote on this particular piece of legislation. A vote, I may add, that can very possibly have a tremendous effect on my future, one way or the other.

I have been a resident of Alaska for almost 16 years. I am presently one of the owners of the Burger King franchise, and prior to that, had the franchise for Lindal Cedar Homes. I have a love for Alaska that will burn in my heart forever.

First of all, I am very much for the legislation of timesharing in Alaska. However, I feel there are several articles in the proposed legislation that are not completely fair to the developers. It is my sincere hope this legislation can be drawn, not only protecting the consumer, but also provide needed assistance to the developer. The development of our project to date has been the hardest thing I have ever done, because we have no legislation. But don't kill the developer, he has needs, too.

John Hansen, an attorney in Anchorage, has been working with us for quite some time and I would consider him the most educated individual in Alaska regarding timeshare laws. I hope he will be asked to testify during the legislation here-ings.

Following are a few of my views concerning the legislation. I agree with the fact that the real estate commission should govern. We treat this as a normal real estate transaction, with fee simple title and consequently would expect to be governed by that agency. I want the consumer protected as in any real estate transaction, to insure their purchase. However, as I ask for the respect to the purchaser, I also ask for respect to the developer.

There are three articles that I violently oppose:

1. A 15 day waiting period to close,
2. A 25 day period prior to disbursement of funds; and
3. No contests or free gifts may be used to acquire appointments.

5601 Silverado Way, Suite B, Anchorage, AK 99502 (907) 561-1907

Letters of Opposition

March 22, 1984

#1. Normal real estate law gives the buyer the right to rescind 72 hours after agreeing to purchase a home. This we could live with, but 15 days will kill us. A timeshare purchase is not a needed item, as a house is. If a person was to buy something, but had to wait 15 days before they had to pay for it, the chances are they would forget why they wanted it and cancel the purchase. The typical person would be bankrupt if they had to live with this rule. This rule will destroy us!

#2. This is absurd! This also will destroy us. We live on a cash flow, as with any other business. Even with closed sales in escrow, we could make no plans. If we had \$100,000 in escrow, we wouldn't know if all of it could be counted on or none of it. Could you run a business that way? I can't.

#3. We do offer free gifts. At Christmas, we gave free turkeys to anyone that would come into our office and let one of our agents give them a presentation. Prior to that, we gave a free one day halibut fishing trip for two. These are quality items and are fair for both parties. They receive compensation for letting us expose them to our project. We sell one out of ten on an average. I don't feel you can say we are taking advantage of the consumer, but it is our lifeline. I don't like giving the gifts, but in this business, it is essential for our survival. How does it hurt the consumer? He only buys if he wants to.

It is important you understand my love for Alaska. I definitely support this legislation, as I feel it is needed by both parties. However, please make it fair for both parties.

"Brigantine Bay Resort" is composed of 77 acres of fee simple property on Resurrection Bay, 2 miles south of Seward. In a sense, we are ambassadors for Alaska. From January through the end of May we are in trade shows throughout the lower 48, promoting Alaska and "Brigantine Bay". With tourism a major industry, we will be a very contributing factor. If our plans reach culmination, over 1,000 individuals per week will be visiting Seward because of Brigantine Bay. In addition, many people will hear of Alaska because of our advertising. A 1/2 hour television show just completed filming in Florida on our project and was aired to over 10,000,000 viewers in February. I could go on, but my point is that timesharing can be very good for Alaska and it's tourism market. In addition, contrary to what may be promoted, members generally enjoy their purchase and often end up buying more weeks. Over 86% of the people who have purchased timeshare units, enjoy what they have purchased. Only 4 1/2% feel disappointed with their purchase. I'll bet many industries wish they could quote national figures like that.

In conclusion, we are a viable, professional entity. We care for Alaska. We are good for Alaska. When you vote, protect me, too!

Sincerely,

William C. Lange

William C. Lange, President
Nugget Properties, Inc.

Brigantine Bay



February 28, 1984

Senate Labor & Commerce Committee
Senator Eliason
Pouch V
Juneau, Alaska 99811

RE: SENATE BILL 494

Dear Senator:

I am the developer of Brigantine Bay, Alaska's first timeshare resort, located in Seward, Alaska.

We spoke last week to your Legislative Aide, Sheila Peterson, who advised us she would notify us when a Committee hearing is scheduled to consider the bill. I want to confirm that request for notification.

We oppose the bill as presently structured in the following respects:

1. The nature and length of the recision and escrow periods.
2. The prohibition against gifts and lotteries.
3. The bill singles out timesharing from other real estate transactions and sales promotions. The bill should not single discriminate against timesharing. It's provisions should apply across the board to all real estate transactions and sales promotions, or it should apply to none.

Additionally, we would like the bill changed to expressly acknowledge the legality of timesharing in Alaska.

We have an extensive list of witnesses, approximately 50, who want to testify at the hearings to be held. These include myself, unit purchasers, salespeople, attorneys, and others knowledgeable in the area of timesharing.

Furthermore, I understand that the Real Estate Commission has some reservations about the bill as presently constituted and therefore, desires input into the bill it will be required to administer.

Sincerely,

William C. Lange

William C. Lange, Developer
Brigantine Bay Resort

cc: John Hanson

5601 Silverado Way, Suite B, Anchorage, AK 99502 (907) 561-1907

S B

494

#2

SECTIONAL ANALYSIS FOR CSSB 494 (L & C)

The changes reflect the CS that passed L+C

PURPOSE

This legislation relates to the sale of time share programs for use, occupancy, or possession of residential property. The bill also amends the Real Estate Commission's authority to adopt regulations necessary for administration of the entire real estate chapter.

The most common time share offer is to sell for a one-to-two week period the use of a vacation "home" in a popular vacation spot to individuals. For example, a person would "own" periods of two weeks of time in an apartment on the beach in Hawaii.

Section 1

The section of the bill requires the Real Estate Commission to set up registration requirements for all time shares offered in the state regardless of whether the property is located in the state. In addition, a time share offer made in this state must be made through a real estate broker, licensed in Alaska. The effect of this requirement would be to give purchasers of time shares recourse to the real estate surety fund for misrepresentation by a real estate broker, associate real estate broker, or real estate salesperson.

Section 45.50.635

The section requires persons selling time shares to disclose in writing significant facts about the offer to potential purchasers. The written disclosure statement must be filed with the Real Estate Commission as part of the registration. Adequate written disclosure enables a consumer to make an informed purchase decision.

Section 45.50.640

This section allows for a 15-day "cooling-off" period for a purchaser to cancel the time share purchase. ¹⁵ Fifteen days will allow a purchaser time to fully review written materials, consult an attorney, accountant, or other professionals and investigate representations made during the time share presentation.

Section 45.50.645

This section requires each purchaser's deposit be held in escrow until after the cancellation period has expired to assure that the purchaser will receive a refund of any payments made if the purchaser decides to cancel. (for 15 days)

Section 45.50.650

This section would provide for enforcement powers identical to the enforcement powers in the Consumer Protection Act.

Section 45.50.655

A private cause of action is specifically set out in this section, providing that for violations of this bill the purchaser may void the sale. If the purchaser, however, has received some value such as using the time share unit for a period of time, the value of that use would be

Sectional Analysis for CS

deducted from any amount the purchaser could recover. The customer's cause of action under this bill would be in addition to all other remedies presently available.

Section 45.50.657

This section reiterates that nothing in this legislation limits any statutory rights.

Section 45.50.660

Various definitions are listed in this section. The definition of "offeror" exempts the requirements of AS 45.50.630 - 45.50.660 for an individual who is re-selling his/her interest in a time share program.

Section 2

This section contains provisions allowing the Real Estate Commission to set, by regulation, procedures for registration of time shares and fees for this registration.

Section 3

A person who markets a time share ^{may} ~~shall~~ pay a supplemental bond fee or post a supplemental bond payable to the real estate surety fund.

Section 4

This section amends the statute that sets the maximum liability of the surety fund for any one broker at \$50,000 so that if a supplemental bond fee for higher liability has been filed by a time share offeror, the consuming public could file claims up to the higher maximum liability amount of the bond fees. The commission will be authorized to establish, by regulation, a schedule of adequate supplemental payments to the surety fund to protect both the public and the integrity of the fund from depletion.

SECTIONAL ANALYSIS FOR CSSB 494 (L & C)

PURPOSE

This legislation relates to the sale of time share programs for use, occupancy, or possession of residential property. The bill also amends the Real Estate Commission's authority to adopt regulations necessary for administration of the entire real estate chapter.

The most common time share offer is to sell for a one-to-two week period the use of a vacation "home" in a popular vacation spot to individuals. For example, a person would "own" periods of two weeks of time in an apartment on the beach in Hawaii.

Section 1

The section of the bill requires the Real Estate Commission to set up registration requirements for all time shares offered in the state regardless of whether the property is located in the state. In addition, a time share offer made in this state must be made through a real estate broker, licensed in Alaska. The effect of this requirement would be to give purchasers of time shares recourse to the real estate surety fund for misrepresentation by a real estate broker, associate real estate broker, or real estate salesperson.

Section 45.50.635

The section requires persons selling time shares to disclose in writing significant facts about the offer to potential purchasers. The written disclosure statement must be filed with the Real Estate Commission as part of the registration. Adequate written disclosure enables a consumer to make an informed purchase decision.

Section 45.50.640

This section allows for a 15-day "cooling-off" period for a purchaser to cancel the time share purchase. Fifteen days will allow a purchaser time to fully review written materials, consult an attorney, accountant, or other professionals and investigate representations made during the time share presentation.

Section 45.50.645

This section requires each purchaser's deposit be held in escrow until after the cancellation period has expired to assure that the purchaser will receive a refund of any payments made if the purchaser decides to cancel.

Section 45.50.650

This section would provide for enforcement powers identical to the enforcement powers in the Consumer Protection Act.

Section 45.50.655

A private cause of action is specifically set out in this section, providing that for violations of this bill the purchaser may void the sale. If the purchaser, however, has received some value such as using the time share unit for a period of time, the value of that use would be

deducted from any amount the purchaser could recover. The customer's cause of action under this bill would be in addition to all other remedies presently available.

Section 45.50.657

This section reiterates that nothing in this legislation limits any statutory rights.

Section 45.50.660

Various definitions are listed in this section. The definition of "offeror" exempts the requirements of AS 45.50.630 - 45.50.660 for an individual who is re-selling his/her interest in a time share program.

Section 2

This section contains provisions allowing the Real Estate Commission to set, by regulation, procedures for registration of time shares and fees for this registration.

Section 3

A person who markets a time share shall pay a supplemental bond fee or post a supplemental bond payable to the real estate surety fund.

Section 4

This section amends the statute that sets the maximum liability of the surety fund for any one broker at \$50,000 so that if a supplemental bond fee for higher liability has been filed by a time share offeror, the consuming public could file claims up to the higher maximum liability amount of the bond fees. The commission will be authorized to establish, by regulation, a schedule of adequate supplemental payments to the surety fund to protect both the public and the integrity of the fund from depletion.

Newest

Draft

Bradley
5/2/84.

Original sponsor: Rules/Governor

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IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 494 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the sale of time share programs for use, occupancy, or possession of residential property; amending the Real Estate Commission's authority to adopt regulations; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 45.50 is amended by adding new sections to read:

ARTICLE 7. TIME SHARE PROGRAMS FOR RESIDENTIAL PROPERTY.

Sec. 45.50.630. REAL ESTATE BROKER AND REGISTRATION. (a) A person may not offer a time share in the state regardless of where the time share project is located unless the offer is made through a real estate broker or associate broker, or real estate salesperson, licensed in the state under AS 08.88.161.

(b) A person may not offer a time share in the state unless the offeror has registered the offering with the Real Estate Commission and paid the registration fee in accordance with regulations adopted under AS 08.88.111. The provisions of AS 08.88 apply to the sale of a time share.

Sec. 45.50.635. DISCLOSURE STATEMENT. A person may not make any offer of a time share, including an offer made by telephone or mail, to a resident of the state regardless of where the time share project is located unless the offeror discloses to the potential purchaser in writing, before the purchaser signs any time share instrument,

(1) the current name and address of the time share offeror;

- 1 (2) the address and location of the time share units;
- 2 (3) a description of the time share units, including the
- 3 developer's schedule for completion of all buildings, units, and
- 4 amenities and dates of availability;
- 5 (4) if the time share program or project is located in part
- 6 or in whole in a horizontal property regime, a description of the
- 7 project and any pertinent provision, of the project instruments;
- 8 (5) any restraints on the transfer of the purchaser's time
- 9 share interest in the time share;
- 10 (6) whether the time share is a time share ownership or a
- 11 use plan, along with a description of the rights and responsibilities
- 12 under that plan;
- 13 (7) a statement that the purchaser has 15 calendar days to
- 14 cancel the time share instrument after the executed instrument has
- 15 been delivered or received by the purchaser;
- 16 (8) a statement that, under AS 45.50.655, every sale or
- 17 transfer made in violation of AS 45.50.630 - 45.50.660 may be revoked
- 18 at the election of the purchaser;
- 19 (9) notice of any liens, title defects, or encumbrances on
- 20 or affecting the offeror's or purchaser's title to the time share
- 21 project;
- 22 (10) notice of any pending or anticipated suits that are
- 23 material to the time share of which the time share offeror has or
- 24 should have knowledge;
- 25 (11) the total financial obligation of the purchaser, in-
- 26 cluding the initial price and each additional charge that the purchas-
- 27 er may be subject to;
- 28 (12) a good-faith estimate of the dues, maintenance fees,
- 29 real property taxes, and similar periodic expenses relating to the

1 time share, and the method or formula by which they are derived and
2 apportioned;

3 (13) a statement as to whether the time share project is
4 included in an exchange program, the present cost and a good faith
5 estimate of the future cost to the purchaser of the exchange program,
6 and whether the purchaser will or will not be required to become a
7 member of the exchange program.

8 Sec. 45.50.640. CANCELLATION RIGHTS. (a) A time share instru-
9 ment may be canceled by the purchaser within 10 days after a fully
10 executed time share instrument is delivered or mailed to the purchas-
11 er. Cancellation under this section voids the instrument as of the
12 date the instrument was signed by the purchaser.

13 (b) If the purchaser elects to cancel a time share instrument
14 under this section, cancellation is effective when the purchaser hand
15 delivers written notice of the cancellation to the time share offeror
16 or the offeror's real estate broker or mails a certified letter,
17 marked "Deliver to Addressee Only, Return Receipt," of cancellation to
18 the time share offeror at the address listed in the offeror's disclo-
19 sure statement within the time period specified in (a) of this sec-
20 tion.

21 (c) A purchaser who, before executing a time share instrument,
22 has made a personal inspection of a completed time share unit or,
23 except under (d) of this section, taken up residence in a completed
24 time share unit, may not cancel the time share instrument under (a) of
25 this section.

26 (d) A purchaser who resides in the purchased time share unit
27 during the 10-day cancellation period may not cancel the time share
28 instrument under (a) of this section later than 48 hours after the
29 purchaser first takes up residency in the purchased time share unit.

*unless the purchaser
has resided in
the unit*

1 Sec. 45.50.645. ESCROW OF DEPOSITS. A deposit or payment made
2 by a purchaser of a time share shall be held in escrow for 15 days to
3 allow time for the purchaser to cancel the time share instrument
4 unless the time share instrument has been earlier canceled. The
5 15-day period begins to run on the day after a fully executed time
6 share instrument is mailed or delivered to the purchaser. All pur-
7 chaser escrow funds shall be deposited in a licensed real estate
8 broker's trust account maintained within the state.

9 Sec. 45.50.650. ENFORCEMENT AND REMEDIES. A violation of
10 AS 45.50.630 - 45.50.660 is an unlawful act or practice prohibited by
11 the Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 -
12 45.50.561. The public enforcement powers and private remedies provid-
13 ed by AS 45.50.471 - 45.50.561 apply to violations of AS 45.50.630 -
14 45.50.660.

15 Sec. 45.50.655. SALES REVOCABLE FOR VIOLATION OF AS 45.50.630 -
16 45.50.660. Each sale or transfer made in violation of AS 45.50.630 -
17 45.50.660 may be revoked by the purchaser. If the time share offeror
18 or a director, officer, or agent of or for the time share offeror has
19 personally participated or aided in any way in making the sale, trans-
20 fer, or solicitation, the offeror and each other person are jointly
21 and severally liable to the purchaser. An action to revoke a sale or
22 transfer made in violation of AS 45.50.630 - 45.50.660 must be filed
23 in the judicial district (1) in which the time share project is lo-
24 cated or was offered or sold, or (2) in which the time share offeror
25 or licensed real estate broker resides or is doing business upon
26 tender of the time share interest sold, or (3) in which the contract
27 was made. On judgment by the court in favor of the purchaser, the
28 purchaser is entitled to the full amount paid by the purchaser, with
29 prejudgment interest, less a portion of the amount paid representing

1 the portion of any benefits the purchaser actually received or had the
2 right to receive during the time preceding the tender. In all cases,
3 the court may provide equitable relief it considers necessary or
4 proper. An action under this section does not limit any other remedy
5 of the purchaser.

6 Sec. 45.50.657. STATUTORY OR COMMON LAW REMEDIES. Nothing in
7 AS 45.50.630 - 45.50.660 limits any other statutory or common law
8 right of a person to bring an action in any court for an act involved
9 in the development, sale, exchange, or purchase of a time share inter-
10 est, or limits the right of a court of the state to penalize a person
11 for a violation of law.

12 Sec. 45.50.658. TIME SHARE PROGRAMS REAL PROPERTY. A time share
13 estate in this state ^{may} shall be organized under AS 34.07 and may be
14 conveyed under AS 34.15.

15 Sec. 45.50.659. PARTITION. Except as provided in a declaration
16 filed under AS 34.07.020 or as provided in bylaws, action for parti-
17 tion of a time share unit may not be maintained in a time share pro-
18 gram organized under AS 34.07.

19 Sec. 45.50.660. DEFINITIONS. In AS 45.50.630 - 45.50.660

20 (1) "offer" includes an inducement, solicitation, or at-
21 tempt by a time share offeror or an agent of the time share offeror to
22 encourage a person to acquire an interest in a time share;

23 (2) "purchaser" means a person who acquires or attempts to
24 acquire or succeeds to an interest in a time share, or who is soli-
25 cited to acquire such an interest;

26 (3) "time share" means a time share estate or a time share
27 use;

28 (4) "time share estate" means an ownership interest in real
29 property devoted to a time share program;

1 (5) "time share instrument" means a document, by whatever
2 name, creating a purchaser's interest in a time share and includes a
3 purchase contract, deed, lease, club membership agreement, vacation
4 license, right-to-use contract, or similar instrument;

5 (6) "time share offeror" or "offeror" means a person, a
6 joint venture, or other entity that creates a time sharing plan or is
7 in the business of selling time share units;

8 (7) "time share program" means an arrangement for time
9 shares in a time share project by which the use, occupancy, or posses-
10 sion of real property has been made subject to a time share under
11 which use, occupancy, or possession circulates among purchasers of the
12 time shares according to a fixed or floating time schedule occurring
13 periodically over any period of time;

14 (8) "time share project" means any real property containing
15 one or more units that is the subject of a time share program;

16 (9) "time share use" means an arrangement, whether called a
17 leasehold, contractual right, or other right, for exclusive occupancy
18 of a specific or unspecified unit in a time share program, other than
19 a time share estate.

20 * Sec. 2. AS 08.88.111 is amended to read:

21 Sec. 08.88.111. COMMISSION REGULATIONS. (a) The commission
22 shall adopt procedural regulations describing

23 (1) how it conducts an examination;

24 (2) how a person applies to take an examination, applies
25 for a use, and registers that person's office;

26 (3) the procedure for registration of time shares, as
27 defined in AS 45.50.660, to be offered in the state.

28 (b) The commission shall adopt regulations regarding registra-
29 tion of time shares to be offered in the state, as required under

1 AS 45.50.630, including

2 (1) a reasonable fee for the registration that may include
3 either the supplemental payment by the time share offeror through its
4 licensed broker or salesperson to the real estate surety fund or
5 bonding in the name of the surety fund; the supplemental payment or
6 bond must be adequate to protect both the public and the real estate
7 surety fund;

8 (2) a requirement that the written disclosure statement
9 described in AS 45.50.635 be part of the registration;

10 (3) a requirement that the name of the real estate broker
11 licensed in the state through whom the time s' will be offered be
12 part of the registration;

13 (4) forms necessary for administering AS 45.50.630; and

14 (5) other regulations necessary to carry out the provisions
15 of AS 45.50.630.

16 (c) In addition to regulations adopted under (a) or (b) of this
17 section, the commission may adopt regulations necessary to carry out
18 the purposes of AS 08.88.

19 * Sec. 3. AS 08.88.455 is amended to read:

20 Sec. 08.88.455. PAYMENTS BY REAL ESTATE BROKERS AND SALESPERSON
21 [SALESMEN]. (a) A licensed real estate broker or associate broker,
22 when obtaining or renewing a real estate license, in lieu of obtaining
23 a corporate surety bond, shall pay to the commission in addition to
24 the license fee, a bond fee not to exceed \$125, and a licensed sales-
25 person [SALESMAN], when obtaining or renewing a license, in lieu of
26 obtaining a corporate surety bond, shall pay to the commission in
27 addition to the license fee, a bond fee not to exceed \$40. After the
28 fund reaches \$250,000 the commission shall by regulation adjust the
29 bond fees so that, taking into account anticipated expenditures for

claims against the fund and real estate educational purposes, the fund is maintained at a level not less than \$250,000.

(b) A licensed real estate broker, associate broker, or salesperson who markets a time share offering for a time share offeror under AS 45.50.630, may be required annually to pay to the commission a supplemental bond fee or post a supplemental bond payable to the real estate surety fund, in accordance with regulations adopted by the commission under AS 08.88.111(b).

(c) All fees collected under this section shall be paid at least once a month by the commission into the general fund. These payments shall be credited to the real estate surety fund.

* Sec. 4. AS 08.88.475 is amended to read:

Sec. 08.88.475. MAXIMUM LIABILITY. (a) The maximum liability of the real estate surety fund does not exceed \$50,000 for any one broker or salesperson, except when the broker or salesperson has paid supplemental fees to the surety fund under AS 08.88.455(b), in which case the maximum liability is as determined under regulations adopted under AS 08.88.111(b) [SALESMAN].

(b) If the maximum [\$50,000] liability of the fund as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have filed claims against one broker or salesperson [SALESMAN], the maximum liability amount [\$50,000] shall be distributed among the claimants in the ratio that their individual claims bear to the aggregate of valid claims, or in another manner that the commission considers equitable. Distribution shall be among the persons entitled to share in the recovery, without regard to the order of priority in which their claims were filed.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

ADMITTED:
STATE OF ALASKA
STATE OF CALIFORNIA

JOHN T. HANSEN
ATTORNEY AT LAW
330 "L" STREET
ANCHORAGE, ALASKA 99501

TELEPHONE
AREA CODE 907
276-4573

April 27, 1984

HAND DELIVERED

Connie J. Sipe, Esq.
Consumer Affairs
Attorney Generals Office
1031 w. 4th Avenue
Suite 110
Anchorage, Alaska 99501

Dear Connie:

I have reviewed your draft substitute version of S.B. 494, and I would suggest that the following changes and additions be incorporated into the final draft.

(1) 45.50.658 should read:

A time share estate which is offered for sale in a time share program organized in accordance with and submitted to the provisions of the Horizontal Property Regimes Act may be held, sold, transferred, exchanged, encumbered or disposed of as any other interest in real property provided for in A.S. 34.15.010 -

This provision clearly provides for real property ownership of time share estates in a program which is submitted to the Horizontal Property Regimes Act and by so doing eliminates uncertainty and the less desirable time share ownership schemes. This proposed section will protect purchasers and afford lenders the certainty they require before they will take a security interest in a time share unit.

The only other section that is necessary to a comprehensive time share bill is one that deals with the common law and statutory right to partition among co-tenants. In this regard, I would propose the following language to address the problem.

(2) A.S. 45.50.659

No action for partition of a time share unit may be maintained in a time share program organized in accordance with and submitted to the Horizontal Property Regimes Act, except as provided by the time share documents. If a time share is owned by two or more persons, the provisions of this section shall not prohibit an action for judicial sale of time shares in lieu of partition as between such co-owners. Notwithstanding any law or authority to the contrary, a provision in a declaration effecting a waiver or subordination of the rights of partition and/or other

Connie J. Sipe, Esq.
April 27, 1984
Page -2-

attributes of tenancy-in-common shall be valid, binding and enforceable.

This section was included in the Model Time Share Act drafted by the National Timesharing Counsel of the American Land Development Association and the National Association of Real Estate License Law Officials. In order to adopt this section, a definition of time share documents is necessary. I would propose the following definition from the above referenced Model Act.

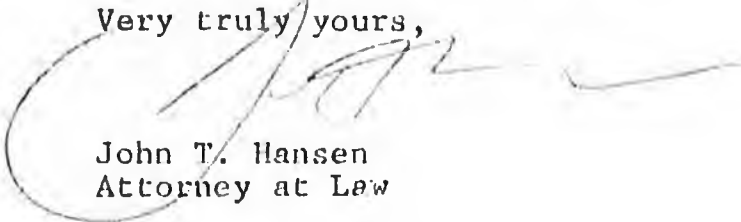
"Timeshare Documents" means all of the documents, by whatever names denominated, and any amendments thereto, which establish the timeshare plan, create and govern the rights and relationships of owners, and govern the use and operation of the timeshare property, excluding project instruments. Such documents include, but are not limited to, the declaration, the articles of incorporation, and by-laws of the association, and the rules and regulations for the timeshare plan.

The cancellation period is less objectionable and if the bill is finally drafted with the above proposed sections included there will be no further objection from my clients. The escrow provisions in 45.50.645 must be changed to be consistent with 45.60.640 (c) by adding the following language in the first sentence following the words "timeshare instrument"; unless the purchaser has made an inspection of the project or resided in the time share unit pursuant to 45.50.640 subsection(c).

I am prepared to send a letter to the members of the Labor and Commerce Committee (a draft of which is enclosed for your reference) in support of your substitute bill if the above referenced changes and additions are incorporated therein. My clients will also direct their resources and efforts towards having such a bill passed this session.

I want to extend my gratitude for your office's efforts and spirit of compromise which I now believe will result in the passage of a balanced and comprehensive time share legislation.

Very truly yours,



John T. Hansen
Attorney at Law

JTH/da

Connie J. Sipe, Esq.
April 27, 1984
Page -2-

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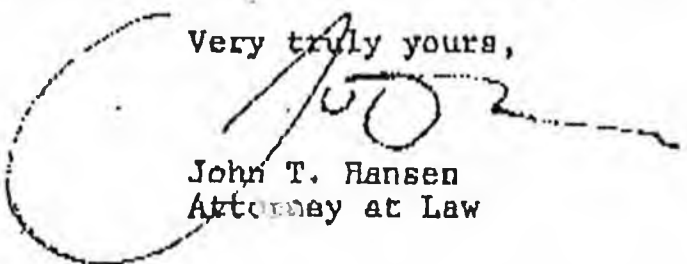
OK { "Timeshare Documents" means all of the documents, by whatever names denominated, and any amendments thereto, which establish the timeshare plan, create and govern the rights and relationships of owners, and govern the use and operation of the timeshare property, excluding project instruments. Such documents include, but are not limited to, the declaration, the articles of incorporation, and by-laws of the association, and the rules and regulations for the timeshare plan.

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I am prepared to send a letter to the members of the Labor and Commerce Committee (a draft of which is enclosed for your reference) in support of your substitute bill if the above referenced changes and additions are incorporated therein. My clients will also direct their resources and efforts towards having such a bill passed this session. *Wrote*

I want to extend my gratitude for your office's efforts and spirit of compromise which I now believe will result in the passage of a balanced and comprehensive time share legislation.

Very truly yours,


John T. Hansen
Attorney at Law

JTH/da

RE: SENATE BILL #4-94 (Timesharing)

The following is a list of suggested changes we would like to see in this particular bill to make it more effective.

Page 2, Item 7

We would like to have this changed from 15 calendar days to 7 calendar days.

Page 3, Section 45.50.642, Item B2

Since these transactions are contractual in themselves and are covered under the real estate act, we do not feel that it is necessary to have this provision.

Page 4, Item 10

We would like to suggest a change in the wording from "any promised or planned entertainment, etc." other than a casual contact such as a lunch not held specifically for the purpose of talking about timesharing. In other words, you could be having an ordinary business lunch in which the subject is not timesharing but the subject could come up on a one to one basis. Some provision should be made for subject casual contact.

Page 4, Item 13

This section apparently attempted to tie in the consumer protection act 45.50.471 and since this is a real estate transaction, the Superior Court has ruled that this particular act is not applicable to real estate. In other words, the real estate laws are adequate for the protection of the consumer.

Section 45.50.645, Escrow Deposits

15 days should be more than adequate time instead of 25 days in which to cancel a timeshare instrument. I would like to add that a title company or other such trust account may be used as well as a brokers trust account. As long as it is a duly constructed and protected trust account, it shouldn't matter.

Page 6, Section 45.50.660, Private Class Action, Item B

Again, we would like to state that since this is a real estate transaction, this section is not applicable to timesharing any more than it would be to any real estate transaction.

Section 45.50.660, Definition

This section does not address an important item and the following should be added: 10. The right to transfer, sell, hold, etc. as in any other real estate transaction.

Basically, it is a fairly good act and has some good protection for both the purchaser and the developer. We particularly like Sections 11 and 12 on Page 4.

Submitted by,



N.E. Sommers

N.E. Sommers Co.

POSITION STATEMENT

I trust all of us have met here for the purpose of establishing laws and regulations that will jointly serve the needs of the consumer, business, governments and regulatory agencies.

We on the industry side are puzzled and perplexed by the harshness of Senate Bill 494 as proposed.

Are we addressing a problem that now exists? Or are we anticipating problems in the future? If there is an existing problem, where is the evidence of that problem? Dozens of people visit our office each week. We have more than one hundred happy timeshare owners who have purchased their properties through our office. Since we are doing quality business, since the overwhelming response to our program is favorable, where is the problem that justifies such harshness?

If this bill has been proposed to prevent some future problem because of something reputed to have taken place in Nevada or Florida or some other place, perhaps it would be wise to proceed cautiously and responsibly to insure that innocent consumers or innocent business people are not injured by hasty, irresponsible action.

To condemn an entire industry for something that happened in some remote area or in a few isolated cases locally would be to assume guilt by association. It is our position that to so assume would be most unfair. As Robert Frost once penned:

"Before I built a wall I'd ask to know/
What I was walling in or walling out."

It is our hope that by carefully considering the real issues addressed by the proposed SB 494, we can judiciously and responsibly arrive at a solution that will protect all concerned and allow us to proceed harmoniously in providing our services to the great people of this state.

We support constructive legislation. We feel that portions of this bill are most beneficial and take strides to enhance timeshare industry standards and practices in Alaska.

What we agree with:

1. Licensing
2. Registration of offerings
3. Disclosure

What we disagree with:

(See marked copies of SB 494)

RECOMMENDATIONS

- #1 Our first recommendation and one that we feel very strongly about is this:
- a. Table SB 494 for further review and in-depth consideration.
 - b. Form a task force, review panel or review committee with representations from industry, consumers, and regulatory agencies.
 - c. Have the committee make specific well thought out and agreed upon recommendations for a comprehensive bill to be passed with full support from all camps in a subsequent legislative session.
- #2 If this is considered an emergency situation (again, where is the evidence) we would recommend the passage of a drastically streamlined version of this bill addressing the issues of licensing and disclosure but deleting controversial issues to be added by amendment in the future. This would provide time for all considerations to be heard and all implications considered.

SYNOPSIS OF POSITION

We feel that SB 494 is written in such a way as to be blatantly discriminatory of the timeshare industry. We regard ourselves, and are regarded by our clientele as real estate professionals. We would appreciate the chance to compete on an equal basis in the real estate industry without the shackles and fetters brought on by careless and presumptuous overlegislation.

We feel that the passage of this bill or any amended form thereof, closely resembling the original, would be a flagrant breach of the public trust we as citizens have placed in our elected officials, our state government, and it's regulatory agencies.

We strongly urge you to sincerely consider and act carefully and judiciously upon our recommendations lest we "wall out" something very beneficial to the residents of this great state.

Presented by

Wayne L. Palmer, President
Network Leisure Shoppes Inc.
on behalf of our employees, our
customers, and our suppliers.

} See original draft

Levy
4/20/84

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 494 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of time share programs
7 for use, occupancy, or possession of residential
8 property; amending the Real Estate Commission's
9 authority to adopt regulations; and providing for an
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 45.50 is amended by adding new sections to read:

13 ARTICLE 7. TIME SHARE PROGRAMS FOR RESIDENTIAL PROPERTY.

14 Sec. 45.50.630. REAL ESTATE BROKER AND REGISTRATION. (a) A
15 person may not offer a time share in the state regardless of where the
16 time share project is located unless the offer is made through a real
17 estate broker or associate broker, or real estate salesperson, li-
18 censed in the state under AS 08.88.161.

19 (b) A person may not offer a time share in the state unless the
20 offeror has registered the offering with the Real Estate Commission
21 and paid the registration fee in accordance with regulations adopted
22 under AS 08.88.111. The provisions of AS 08.88 apply to the sale of a
23 time share.

24 Sec. 45.50.635. DISCLOSURE STATEMENT. A person may not make any
25 offer of a time share, including an offer made by telephone or mail,
26 to a resident of the state regardless of where the time share project
27 is located unless the offeror discloses to the potential purchaser in
28 writing, before the purchaser signs any time share instrument,

- 29 (1) the current name and address of the time share offeror;

- 1 (2) the address and location of the time share units;
- 2 (3) a description of the time share units, including the
- 3 developer's schedule for completion of all buildings, units, and
- 4 amenities and dates of availability;
- 5 (4) if the time share program or project is located in part
- 6 or in whole in a horizontal property regime, a description of the
- 7 project and any pertinent provisions of the project instruments;
- 8 (5) any restraints on the transfer of the purchaser's time
- 9 share interest in the time share;
- 10 (6) whether the time share is a time share ownership or a
- 11 use plan, along with a description of the rights and responsibilities
- 12 under that plan;
- 13 (7) a statement that the purchaser has 15 calendar days to
- 14 cancel the time share instrument after the executed instrument has
- 15 been delivered or received by the purchaser;
- 16 (8) a statement that, under AS 45.50.655, every sale or
- 17 transfer made in violation of AS 45.50.630 - 45.50.660 may be revoked
- 18 at the election of the purchaser;
- 19 (9) notice of any liens, title defects, or encumbrances on
- 20 or affecting the offeror's or purchaser's title to the time share
- 21 project;
- 22 (10) notice of any pending or anticipated suits that are
- 23 material to the time share, of which the time share offeror has, or
- 24 should have, knowledge;
- 25 (11) the total financial obligation of the purchaser,
- 26 including the initial price and any additional charges to which the
- 27 purchaser may be subject;
- 28 (12) a good-faith estimate of the dues, maintenance fees,
- 29 real property taxes, and similar periodic expenses relating to the

1 time share, and the method or formula by which they are derived and
2 apportioned;

3 (13) a statement as to whether the time share project is
4 included in an exchange program, the present cost and a good faith
5 estimate of the future cost to the purchaser of the exchange program,
6 and whether the purchaser will or will not be required to become a
7 member of the exchange program.

8 Sec. 45.50.640. CANCELATION RIGHTS. (a) A time share instru-
9 ment may be canceled by the purchaser within 15 days after a fully
10 executed time share instrument is delivered or mailed to the purchas-
11 er. Cancellation under this section voids the instrument as of the
12 date the instrument was signed by the purchaser.

13 (b) If the purchaser elects to cancel a time share instrument
14 under this section, cancellation is effective when the purchaser
15 hand-delivers written notice of the cancellation to the time share
16 offeror or the offeror's real estate broker, or mails a certified
17 letter, marked "Deliver to Addressee Only, Return Receipt," of cancel-
18 ation to the time share offeror at the address listed in the offeror's
19 disclosure statement within the time period specified in (a) of this
20 section.

21 Sec. 45.50.645. ESCROW OF DEPOSITS. A deposit or payment made
22 by a purchaser of a time share shall be held in escrow for 25 days to
23 allow time for the purchaser to cancel the time share instrument. The
24 25-day period begins to run on the day after a fully executed time
25 share instrument is mailed or delivered to the purchaser. All pur-
26 chaser escrow funds shall be deposited in a licensed real estate
27 broker's trust account within the state.

28 Sec. 45.50.650. ENFORCEMENT. A violation of AS 45.50.630 -
29 45.50.660 is an unlawful act or practice prohibited by the Unfair
30

1 Trade Practices and Consumer Protection Act, AS 45.50.471 - 45.50.561.
2 The enforcement powers granted the attorney general in AS 45.50.495 -
3 45.50.561 apply to enforcement of AS 45.50.630 - 45.50.660.

4 Sec. 45.50.655. SALES REVOCABLE FOR VIOLATION OF AS 45.50.630 -
5 45.50.660; PRIVATE AND CLASS ACTIONS. (a) Every sale or transfer
6 made in violation of AS 45.50.630 - 45.50.660 may be revoked by the
7 purchaser. If the time share offeror or a director, officer, or agent
8 of or for the time share offeror has personally participated or aided
9 in any way in making the sale, transfer, or solicitation, the offeror
10 and other person are jointly and severally liable to the purchaser.
11 An action must be filed in the judicial district (1) in which the time
12 share project is located or was offered or sold, or (2) in which the
13 time share offeror or licensed real estate broker resides or is doing
14 business upon tender of the time share interest sold, or (3) in which
15 the contract was made. The purchaser is entitled to the full amount
16 paid by the purchaser, with prejudgment interest, less a portion of
17 the amount paid representing the portion of any benefits the purchaser
18 actually received or had the right to receive during the time preced-
19 ing the tender. In all cases, the court may provide equitable relief
20 it considers necessary or proper. This action does not limit any
21 other remedy of the purchaser.

22 (b) A person entitled to bring an action under this section may
23 bring an action on behalf of all similarly injured and situated per-
24 sons to recover damages and injunctive or other equitable relief in
25 addition to damages.

26 (c) In an action brought by a person under this section, the
27 court may award, in addition to the relief provided in this section,
28 reasonable attorney fees and costs.

29 (d) A permanent injunction or final judgment against a person in

1 an action initiated by the attorney general under AS 45.50.501 is
2 prima facie evidence in an action brought under this section that the
3 person used or employed an act or practice declared unlawful.

4 Sec. 45.50.657. STATUTORY OR COMMON LAW REMEDIES. Nothing in
5 AS 45.50.630 - 45.50.660 limits any statutory or common law right of a
6 person to bring an action in any court for an act involved in the
7 development, sale, exchange, or purchase of a time share interest, or
8 limits the right of the state to punish a person for a violation of
9 law.

10 Sec. 45.50.660. DEFINITIONS. In AS 45.50.630 - 45.50.660

11 (1) "offer" includes an inducement, solicitation, or
12 attempt by a time share offeror or an agent of the time share offeror
13 to encourage a person to acquire an interest in a time share;

14 (2) "purchaser" means a person, as defined in AS 01.10.-
15 060(7), who acquires or attempts to acquire or succeeds to an interest
16 in a time share, or who is solicited to acquire such an interest;

17 (3) "time share" means a time share estate or a time share
18 use;

19 (4) "time share estate" means an ownership interest in real
20 property devoted to a time share program;

21 (5) "time share instrument" means a document, by whatever
22 name, creating a purchaser's interest in a time share, and includes
23 a purchase contract, deed, lease, club membership agreement, vacation
24 license, right-to-use contract, or similar instrument;

25 (6) "time share offeror" or "offeror" means a person, as
26 defined in AS 01.10.060(7), as well as a joint venture or other enti-
27 ty, that creates a time sharing plan or is in the business of selling
28 time share units;

29 (7) "time share program" means an arrangement for time

1 shares in a time share project by which the use, occupancy, or
2 possession of real property has been made subject to a time share
3 under which use, occupancy, or possession circulates among purchasers
4 of the time shares according to a fixed or floating time schedule
5 occurring periodically over any period of time;

6 (8) "time share project" means any real property containing
7 one or more units that is the subject of a time share program;

8 (9) "time share use" means an arrangement, whether called a
9 leasehold, contractual right, or other right, for exclusive occupancy
10 of a specific or unspecified unit in a time share program, other than
11 a time share estate.

12 * Sec. 2. AS 08.88.111 is amended to read:

13 Sec. 08.88.111. COMMISSION REGULATIONS. (a) The commission
14 shall adopt procedural regulations describing

15 (1) how it conducts an examination;

16 (2) how a person applies to take an examination, applies
17 for a license, and registers that person's office;

18 (3) the procedure for registration of time shares, as
19 defined in AS 45.50.660, to be offered in the state.

20 (b) The commission shall adopt regulations regarding registra-
21 tion of time shares to be offered in the state, as required under
22 AS 45.50.630, including

23 (1) a reasonable fee for the registration that may include
24 either the supplemental payment by the time share offeror through its
25 licensed broker or salesperson to the real estate surety fund or
26 bonding in the name of the surety fund; the supplemental payment or
27 bond must be adequate to protect both the public and the real estate
28 surety fund;

29 (2) a requirement that a written disclosure statement, as

1 described in AS 45.50.635, be part of the registration;

2 (3) a requirement that the name of the real estate broker
3 licensed in this state through whom the time share will be offered be
4 part of the registration;

5 (4) forms necessary for administering AS 45.50.630; and

6 (5) other regulations necessary to carry out the provisions
7 of AS 45.50.630.

8 (c) In addition to regulations adopted under (a) or (b) of this
9 section, the commission may adopt regulations necessary to carry out
10 the purposes of AS 08.88.

11 * Sec. 3. AS 08.88.455 is amended to read:

12 Sec. 08.88.455. PAYMENTS BY REAL ESTATE BROKERS AND SALESPERSON
13 [SALESMEN]. (a) A licensed real estate broker or associate broker,
14 when obtaining or renewing a real estate license, in lieu of obtaining
15 a corporate surety bond, shall pay to the commission in addition to
16 the license fee, a bond fee not to exceed \$125, and a licensed sales-
17 person [SALESMAN], when obtaining or renewing a license, in lieu of
18 obtaining a corporate surety bond, shall pay to the commission in
19 addition to the license fee, a bond fee not to exceed \$40. After the
20 fund reaches \$250,000 the commission shall by regulation adjust the
21 bond fees so that, taking into account anticipated expenditures for
22 claims against the fund and real estate educational purposes, the fund
23 is maintained at a level not less than \$250,000.

24 (b) A licensed real estate broker, associate broker, or sales-
25 person who markets a time share offering for a time share offeror
26 under AS 45.50.630, shall annually pay to the commission a supplemen-
27 tal bond fee or post a supplemental bond payable to the real estate
28 surety fund, in accordance with regulations adopted by the commission
29 under AS 08.88.111(b).

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(c) All fees collected under this section shall be paid at least once a month by the commission into the general fund. These payments shall be credited to the real estate surety fund.

* Sec. 4. AS 00.88.475 is amended to read:

Sec. 08.88.475. MAXIMUM LIABILITY. (a) The maximum liability of the real estate surety fund does not exceed \$50,000 for any one broker or salesperson, except when the broker or salesperson has paid supplemental fees to the surety fund under AS 08.88.455(b), in which case the maximum liability is as determined under regulations adopted under AS 08.88.111(b) [SALESMAN].

(b) If the maximum [\$50,000] liability of the fund as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have filed claims against one broker or salesperson [SALESMAN], the maximum liability amount [\$50,000] shall be distributed among the claimants in the ratio that their individual claims bear to the aggregate of valid claims, or in another manner that the commission considers equitable. Distribution shall be among the persons entitled to share in the recovery, without regard to the order of priority in which their claims were filed.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

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Explanations

Deletions and/or corrections

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of time share programs
7 for use, occupancy, or possession of residential
8 property; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 45.50 is amended by adding new sections to read:

11 ARTICLE 7. TIME SHARE PROGRAMS FOR RESIDENTIAL PROPERTY.

12 Sec. 45.50.630. REAL ESTATE BROKER AND REGISTRATION. (a) It is
13 unlawful to offer a time share in the state regardless of where the
14 time share project is located unless the offer is made through a real
15 estate broker or associate broker, or real estate salesperson, li-
16 censed in the state under AS 08.88.161.

17 (b) It is unlawful to offer a time share in the state unless the
18 offeror has registered the offering with the Real Estate Commission,
19 and paid the registration fee, in accordance with regulations adopted
20 under AS 08.88.111. AS 08.88 applies to the sale of a time share.

21 Sec. 45.50.640. DISCLOSURE STATEMENT. It is unlawful to make
22 any offer of a time share including an offer made by telephone or mail
23 to a resident of the state regardless of where the time share project
24 is located unless the offeror discloses to the potential purchaser in
25 writing, before the purchaser signs any time share instrument,

26 (1) the current name and address of the time share offeror;

27 (2) the address and location of the time share units;

28 (3) a description of the time share units, including the
29 developer's schedule for completion of all buildings, units, and

amenities and dates of availability;

(4) if the time share program or project is located in part or in whole in a horizontal property regime, a description of the project and any pertinent provisions of the project instruments;

(5) any restraints on the transfer of the purchaser's time share interest in the time share;

(6) whether the time share is a time share ownership or a use plan, along with a description of the rights and responsibilities under that plan;

~~Delete in conjunction with Sec. 45.50.645~~
(7) a statement that the purchaser has 15 calendar days to cancel the time share instrument once the executed instrument has been delivered or received by the purchaser;

(8) a statement that, under AS 45.50.653, every sale or transfer made in violation of AS 45.50.630 -- 45.50.660 may be revoked at the election of the purchaser;

(9) notice of any liens, title defects, or encumbrances on or affecting the offeror's or purchaser's title to the time share project;

(10) notice of any pending or anticipated suits that are material to the time share, of which the time share offeror has, or should have, knowledge;

(11) the total financial obligation of the purchaser, which shall include the initial price and any additional charges to which the purchaser may be subject;

(12) a good-faith estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses relating to the time share, and the method or formula by which they are derived and apportioned;

(13) a statement as to whether the time share project is

1 included in an exchange program, the present cost and a good faith
2 estimate of the future cost to the purchaser of the exchange program,
3 and whether the purchaser will or will not be required to become a
4 member of the exchange program.

5 Sec. 45.50.642. UNLAWFUL ACTS AND PRACTICES. (a) Unfair meth-
6 ods of competition, and deceptive or unfair acts or practices, in the
7 offer or sale of a time share are declared to be unlawful.

8 (b) The terms "unfair methods of competition" and "deceptive or
9 unfair acts or practices" include, but are not limited to, the follow-
10 ing unlawful acts:

11 (1) misrepresenting or failing to disclose any material
12 fact concerning a time share;

13 (2) failing to honor and comply with all provisions of a
14 time share instrument entered into with a purchaser;

15 (3) including in any time share instrument provisions
16 purporting to waive any right or benefit provided for purchasers under
17 AS 45.50.630 -- 45.50.660;

18 ~~Delete-Earnest money deposits are absolutely necessary tools~~
19 ~~in conducting professional real estate practices to the protection~~
20 (4) receiving from a prospective purchaser any money or
21 other valuable consideration before the purchaser signs a time share
22 instrument of both the purchaser and the seller.

23 (5) misrepresenting the amount of time or period of time
24 the time share unit will be available to a purchaser;

25 (6) misrepresenting the location or locations of the of-
26 fered time share unit;

27 (7) misrepresenting the size, nature, extent, qualities, or
28 characteristics of the offered time share unit;

29 (8) misrepresenting the nature or extent of any services
30 incident to the time share unit;

31 (9) misrepresenting the conditions under which a purchaser

1 may exchange occupancy rights to a time share unit in one location for
2 occupancy rights to a time share unit in another location;

3 ~~People of legal age are responsible enough to~~
4 ~~(10) failing to disclose during the initial contact with a~~
5 ~~determine whether or not the invitation to attend a presentation is~~
6 ~~prospective purchaser that any promised entertainment, food, or other~~
7 ~~worth their time.~~

8 inducements not prohibited by AS 45.50.630 -- 45.50.660 are being
9 offered for the purpose of soliciting sales of a time share;

10 ~~This clause is constitutionally questionable.~~
11 ~~(11) conducting or participating in any type of lottery or~~
12 ~~It attacks a client procurement method used by varied industries~~
13 ~~contest, or offering prizes or gifts for the purpose of inducing or~~
14 ~~including banking, real estate, travel, fast food, retailers,~~
15 ~~encouraging a person to visit a time share project, attend a meeting~~
16 ~~publishers, auto dealers, government (oil lotteries), etc. It~~
17 ~~at which a time share will be discussed, attend a time share presenta-~~
18 ~~conflicts with general principles of fair advertising. To adopt it~~
19 ~~tion, or purchase an interest in a time share;~~
20 ~~for timeshare would be most discriminatory.~~

21 (12) serving or giving alcoholic beverages, as defined in
22 AS 04.21.080(b)(1), in connection with the offer or disposition of a
23 time share at a meeting or presentation in which a time share will be
24 discussed;

25 (13) any act or practice considered an unfair method of
26 competition or an unfair or deceptive act or practice under AS 45.50.-

27 ~~(14) See suggested additions on page 8 (*)~~
28 471.

29 ~~Delete unless the same provision is to be~~
30 ~~Sec. 45.50.645. CANCELLATION RIGHTS. (a) A time share instru-~~
31 ~~applied uniformly throughout the real estate industry as well as all~~
32 ~~ment may be cancelled by the purchaser within 15 days after a fully~~
33 ~~other commercial enterprises. Just imagine the impact of giving voters~~
34 ~~executed time share instrument is delivered or mailed to the purchas-~~
35 ~~15 days to cancel their ballots. This section implies guilt by~~
36 ~~er. Cancellation under this section voids the instrument as of the~~
37 ~~association and is therefore most offensive.~~
38 ~~date the instrument was signed by the purchaser.~~

39 ~~Delete (Same condition as Sec. 45.50.645 above)~~

40 (b) If the purchaser elects to cancel a time share instrument
41 under this section, cancellation is effective when the purchaser
42 hand-delivers written notice of the cancellation to the time share
43 offeror or the offeror's real estate broker, or mails a certified
44 letter, marked "Deliver to Addressee Only, Return Receipt," of cancel-
45 lation to the time share offeror at the address listed in the

offeror's disclosure statement within the time period specified in
of this section.

~~Delete in conjunction with right to~~
Sec. 45.50.647. ESCROW OF DEPOSITS. A deposit or payment
~~cancel. This clause is very ill conceived and extremely harmful~~
by a purchaser of a time share shall be held in escrow for 25 days
~~to business operations. It violates acceptable accounting~~
allow time for the purchaser to cancel the time share instrument.
~~procedures and seems to be in violation of Alaska Real Estate~~
25-day period begins to run on the day after a fully executed t
~~rust account law with regard to commingling trust account funds.~~
share instrument is mailed or delivered to the purchaser. All p
chaser escrow funds shall be deposited in a licensed real est
broker's trust account within the state.

Sec. 45.50.650. ENFORCEMENT. A violation of AS 45.50.630
45.50.660 is an unlawful act or practice prohibited by the Unfa
Trade Practices and Consumer Protection Act, AS 45.50.471 -- 45.50
561. The enforcement powers granted the attorney general in AS 45
50.495 -- 45.50.561 apply to enforcement of AS 45.50.630 -- 45.50.660.

Sec. 45.50.653. SALES REVOCABLE FOR VIOLATION OF AS 45.50.630
45.50.660; PRIVATE AND CLASS ACTIONS. (a) Every sale or transfe
made in violation of AS 45.50.630 -- 45.50.660 may be revoked by th
purchaser. If the time share offeror or a director, officer, or agen
of or for the time share offeror has personally participated or aide
in any way in making the sale, transfer, or solicitation, the offeror
and other person are jointly and severally liable to the purchaser.
An action must be filed in the judicial district (1) in which the time
share project is located or was offered or sold, or (2) in which the
time share offeror or licensed real estate broker resides or is doing
business upon tender of the time share interest sold, or (3) in which
the contract was made. The purchaser is entitled to the full amount
paid by the purchaser, with prejudgment interest, less a portion of
the amount paid representing the portion of any benefits the purchaser
actually received or had the right to receive during the time

1 preceding the tender. In all cases, the court may provide equitable
2 relief it considers necessary or proper. This action does not limit
3 any other remedy of the purchaser.

4 (b) A person entitled to bring an action under this section may
5 bring an action on behalf of all similarly injured and situated per-
6 sons to recover damages and injunctive or other equitable relief in
7 addition to damages.

8 (c) In an action brought by a person under this section, the
9 court may award, in addition to the relief provided in this section,
10 reasonable attorney fees and costs.

11 (d) A permanent injunction or final judgment against a person in
12 an action initiated by the attorney general under AS 45.50.501 is
13 prima facie evidence in an action brought under this section that the
14 person used or employed an act or practice declared unlawful.

15 Sec. 45.50.655. STATUTORY OR COMMON LAW REMEDIES. Nothing in
16 AS 45.50.630 -- 45.50.660 limits any statutory or common law right of
17 a person to bring an action in any court for an act involved in the
18 development, sale, exchange, or purchase of a time share interest, or
19 limits the right of the state to punish a person for a violation of
20 law.

21 Sec. 45.50.660. DEFINITIONS. In AS 45.50.630 -- 45.50.660,

22 (1) "offer" includes every inducement, solicitation, or
23 attempt by a time share offeror or his agent to encourage a person to
24 acquire an interest in a time share;

25 (2) "purchaser" means a person, as defined in AS 01.10
26 060(7), who acquires or attempts to acquire or succeeds to an interest
27 in a time share, or who is solicited to acquire such an interest;

28 (3) "time share" means a time share estate or a time share
29 use;

1 (4) "time share estate" means an ownership interest in real
2 property devoted to a time share program;

3 (5) "time share instrument" means a document, by whatever
4 name, creating a purchaser's interest in a time share, and includes
5 but is not limited to a purchase contract, deed, lease, club member-
6 ship agreement, vacation license, and right-to-use contract;

7 (6) "time share offeror" or "offeror" means a person, as
8 defined in AS 01.10.060(7), as well as a joint venture or other
9 entity, that creates a time sharing plan or is in the business of
0 selling time share units;

1 (7) "time share program" means an arrangement for time
2 shares in a time share project by which the use, occupancy, or posses-
3 sion of real property has been made subject to a time share under
4 which use, occupancy, or possession circulates among purchasers of the
5 time shares according to a fixed or floating time schedule occurring
6 periodically over any period of time;

7 (8) "time share project" means any real property containing
8 one or more units that is the subject of a time share program;

9 (9) "time share use" means an arrangement, whether called a
0 leasehold, contractual right, or other right, for exclusive occupancy
1 of a specific or unspecified unit in a time share program, other than
2 a time share estate.

3 * Sec. 2. AS 08.88.111 is amended to read:

4 Sec. 08.88.111. COMMISSION REGULATIONS. (a) The commission
5 shall adopt procedural regulations describing

6 ~~Why amend and duplicate efforts or systems. It seems~~
7 (1) how it conducts an examination;
8 ~~commission regulations as presently constituted~~
9 (2) how a person applies to take an examination, applies
0 ~~could satisfactorily administer exams, licensing~~
1 for a license, and registers that person's office;
2 ~~and office registrations. Why single out one segment of the real estate~~
3 ~~industry?~~ (3) the procedure for registration of time shares, as

defined in AS 45.50.660, to be offered in the state.

(b) The commission shall adopt regulations regarding registration of time shares to be offered in the state, as required under AS 45.50.630, including

~~Stress reasonable - not to include travel costs to~~
(1) a reasonable fee for the registration;
~~allow resort visits. Colorado charges \$100 for registration.~~ (2) a requirement that a written disclosure statement, as
~~includes this - marked by mistake.~~
described in AS 45.50.640, be part of the registration;

(3) a requirement that the name of the real estate broker licensed in this state through whom the time share will be offered be part of the registration;

(4) forms necessary for administering AS 45.50.630; and
~~Too broad. Real estate commission could potentially~~
(5) other regulations necessary to carry out the provisions
~~become a legislative body. Scope of authority must be reasonably~~
of AS 45.50.630. related to existing statutes.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

(*) Suggested additions:

* Sec. 4 GRANDFATHER CLAUSE

An offeror offering a timeshare program in Alaska prior to the time this act takes effect will be granted a reasonable period of time thereafter to come into full compliance with the requirements of this act.

* Add to sec. 45.50.642 (UNLAWFUL ACTS AND PRACTICES)

The offering of any time share interest that does not qualify as a timeshare estate; such as "right to use" and/or "club membership" programs but not limited to the same.

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Timeshare restrictions would help protect potential buyers

by Annette Taylor
Times Business Writer

A new law proposed by the state attorney general's office would prohibit certain sales tactics commonly used to promote timeshare recreational property.

Timeshare property is the use of a vacation home or condominium for a limited, pre-planned time. Timesharing can involve actual ownership or merely a contractual right to use the property.

If passed by the legislature, sellers would be prohibited from offering prizes or gifts to induce people to attend sales presentations or to visit timeshare projects.

Buyers also would be allowed 15 days in which to rescind a contract.

The bill would be the state's first law specifically addressing timeshare property and programs.

Timeshare properties often are promoted by direct mail solicitations. The letters usually say that the recipient has won an expensive prize or trip and can claim it at a specific location. The requirement that the person first must listen to a sales presentation is in fine print on the back of the notice, if at all.

The attorney general's office drafted the bill because of misleading sales promotions, deceptive or sketch information about the timeshare property and fraud, said Linda O'Bannon, a lawyer with the

branch planned

plicated banking transactions, the bank said.

Branch operations will focus on mortgage loans, with most of the 20 bank employees processing loans. John McGrew, former assistant vice president in the investor lending division, will be the branch manager.

First National Bank has leased 6,450 square feet of space in the new Grand Northern Building. The Diamond branch will be the bank's first branch south of 36th Avenue.

First National has eight branch offices in Anchorage and 22 branches total statewide.

consumer protection division.

"What we want to do is eliminate the bad sales practices," she said.

"There's been a history of problems nationwide where people have been pressured into buying a timeshare after being lured to presentation by a gift of some kind," she said. "When the property is Outside, people don't know what they're buying. Sometimes it's what they were told; sometimes it isn't."

O'Bannon said the staff considers the 15-day rescission right the most important provision in the bill.

"It negates the high-pressure tactics and gives people an opportunity to make such an important decision in a reasoned manner," she said.

John Hansen, an Anchorage attorney representing developers of timeshare property in Alaska, said the industry generally supports the bill because legitimate business people "don't want the hucksters here either."

But he said he doesn't see anything improper about awarding gifts to people who attend sales presentations, especially when buyers would be allowed a "cooling off" period.

"I guess some people feel beholden if they partake in a halibut bake," Hansen said. "But if you've had time to digest your meal, you may decide it was dumb idea" to buy into a timeshare project and cancel.

He essentially supported the concept of cancellation rights, but said 15 days was too long. He said the requirement could be detrimental to buyers wishing to take advantage of an immediate opening in a project, for example.

The two-week period could be justified for an Outside project because a buyer would need that time to check it out. For projects in the state, a three-day right of rescission would be adequate, Hansen said.

"We feel there should be a distinction in the law for in-state projects," he said.

Hansen said legislation is needed on timeshares to specify the rights and obligations of both the developer and the consumer. While he supported most provisions in the attorney general's bill, he said it didn't go far enough in clarifying rights and obligations.

Hansen said his clients are drafting proposed changes and additions to the bill.

News Clippings

Laws to aid buyers of timeshare property

by Annette Taylor
Times Business Writer

The state attorney general's office will propose "sunshine" legislation next session to prevent some bad burns on shady timeshare condominium deals.

The state has few laws to regulate salespeople visiting Alaska to sell shares in recreational property Outside. With little protection, Alaskans are "ripe victims for a burn," Attorney General Norman Gorsuch said.

Timeshare property is the use of a vacation home or condominium for a limited, pre-planned time. Timesharing can involve actual ownership or merely a contractual right to use the property.

In Alaska and elsewhere, timeshare sales usually are promoted by direct mail solicitations.

The envelope often has all the signs of junk mail. But the word "Winner" printed on the corner and the faint impression of a 1983 Cadillac coming through the white paper suggest that the family's luck may have changed.

All that's required to claim the prize is to visit an Anchorage hotel room and listen to 20-minute presentation.

"But when they get to the hotel they learn they're winners in a category that includes the Ca-

dillac," Linda O'Bannon of the state attorney general's consumer protection division said. "What they've won is a plastic bag and a high-pressure sales pitch to sign on the dotted line."

The Colorado attorney general's office noted consumer complaints about being isolated in a room for up to four hours with salespeople giving them alcohol and spiels on discounts and once-in-a-lifetime opportunities.

"Many people aren't prepared to resist when they're seeing slides of heaven on earth in January," O'Bannon said. "So they sign."

"If ever they go, they find that the condo is not on the beach as the slides suggested but two miles away," she said.

And the only access is through private property.

Not all sales gimmicks for timeshare condominiums in Hawaii, Mexico, Nevada and other popular vacation spots are deceptive or misleading. Nor are all havens located on swamp land in Florida.

But sorting the legitimate entrepreneurs from the fast-buck Eddies maneuvering through legal loopholes is difficult "when we're in Alaska and the condos — and companies — are Outside," O'Bannon said.

Some of the problems, she said, include the fail-

ure of salespeople to explain the difference between part-ownership and contractual right-to-use a timeshare condominium.

Owning property is an investment in real estate while a license agreement is more like a lease with no actual investment in the property, she said.

Some people enter a timeshare arrangements in conjunction with an exchange program. The exchange program offers the opportunity to arrange swaps with other resorts in other locations.

Often, such programs cannot be guaranteed. And some operate on a point system, which may or may not be disclosed to the buyer.

"If you have a timeshare in Indiana in January you might get one point credit for the timeshare in Spain while someone with a condo in Hawaii in January gets 10 points," she said. "What that means is your chances to move up the list to use the condo in Spain are pretty slim."

The proposed legislation, which is still being drafted, would require full disclosure about timeshare property and the prizes and would allow a "cooling off" period in which a buyer could rescind a contract.

It also would require the visiting salespeople to work through a local real estate broker.

Homer fishermen set their sights on whitefish

by Steve Rinehart
Homer News

Spread across the deck were sculpin, skate, black cod, baby pollock, small halibut, two kinds of shrimp, three kinds of crab and a small sand shark with emerald eyes. Slithering in between were the Wolfkill's quarry — the starry flounder and the yellowfin sole.

The 45-foot dragger spent last Saturday, like the dozen days before, in an all-out search for bottomfish for which there was little market and less interest just months ago. "Scratch fishing," is what skipper Ken Castner called it; dropping the net where the lines of in-

and slowly herded the fish ahead and to the center. Some escaped. The rest, running out of steam from being forced to swim too fast, fell father and farther behind — into the bosom of the net.

The Wolfkill's totes, empty at the start, held 1,200 pounds of flounder at the end of the day, 700 pounds of bait fish, and a few odds and ends.

They are all part of an experiment. With salmon prices down, halibut facing restriction, and shellfish openings in doubt, whitefish that used to be ignored have suddenly grown attractive.

John Wolfe, who owns the boat, and Velma Ellyson, who owns Katch Canning Co., have formed a partnership



The Anchorage Times

Business

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by Arnette Taylor
Times Business Writer

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Friday
Nov 11, 1983



k. c. moon

TROUBLESHOOTER

PRECIOUS METALS IN PRECIOUS MEDALS: After watching the Winter Olympic Games, I began wondering about the medals awarded to the top three finishers. Are the gold medals solid gold? Do all the medals have the same inscription? — H.S.

✓ The International Olympic Committee sets the standards for the medals, although each host site designs its own inscription. Each medal must measure at least 30 millimeters in diameter and 3 millimeters in thickness. Silver medals must be made with sterling silver (at least 92.5 percent pure). Gold medals must have the same sterling base with a plating of at least six grams pure (24 carat) gold. There are no IOC stipulations about bronze medals.

Sentimentality aside, an Olympic gold medal contains about \$85 worth of precious metals (at current prices); a silver, about \$10.

A BRISK FRISK SAVES TIME: My son and I were shopping at a grocery store a few weeks back. While we were walking out of the store, a security guard stopped me and said he saw me shoplift something. I knew I didn't take anything so I let him frisk me and search my jacket. After he apologized and let me go, I began wondering: Could I have refused the search? — Bill W.

✓ Yes, you could have refused the search. But guards, acting as agents of the store owner, have a right to forcibly detain you until police arrive. Then, if the store owner files a formal complaint, police can arrest and search you anyway. So the practical thing to do is to cooperate with the store guards and show them you're "clean." If you feel the guards are harassing you, file a civil suit. Or shop at another store.

CONGRATS! YOU'VE WON A SALES PITCH: During the Fur Rondy, my husband entered us in a drawing for a charter fishing kayak, which was being offered by a company selling time-share vacation condos. Soon afterward, I got a call saying we had won the drawing. I have my doubts about their "contest." Are they going to make us sit through hours of high-pressure sales presentations before we get the fishing trip? — J.E.

✓ Yes, if this company is like most other time-share peddlers. The easiest way to get people to listen to the company's propaganda is to trick them into it; that is, the company tells you you've won a vacation when what you've really won is a bombardment of sales presentations. But as it is, you don't find out about the sales part until you've arrived for the vacation.

A new bill introduced in the legislature a month ago seeks to prevent many of these deceptive practices. SB 494 was introduced by the governor at the request of the attorney general, whose consumer protection office has fielded many a complaint about time-share wheeler-dealers. One of the provisions of the bill would prevent time-share salesmen from conducting lotteries or offering gifts as a means of pushing their product. Under the bill, they would have to disclose that the prerequisite for a "free vacation" is tolerating boring sales pitches.

[] If you are having troubles getting action out of a business or agency, or have a question that's peeved you, let The Troubleshooter give it a try. Write The Troubleshooter, Pouch 6616, Anchorage, Alaska 99502, or call 788-4743. Items will be selected for publication on the basis of interest or helpfulness. Names will be used unless anonymity is requested. Letters and documents cannot be returned.

NEWS



National
TimeSharing
Council

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A Council of the American Land Development Association

FOR IMMEDIATE RELEASE
December 13, 1983

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(202) 659-4582

TIMESHARING LEGISLATION BOOMS IN 1983

Washington, D.C. -- In 1983, fourteen states passed new laws covering real estate timesharing which incorporated elements of the National TimeSharing Council/National Association of Real Estate License Law Officials Model Timeshare Act.

Drafted a year ago, the NTC/NARELLO Model Act provides protection for purchasers of timesharing through provisions on escrow, licensing and permits, project registration, advertising and jurisdiction. It also establishes state regulation of the timesharing industry.

Prior to the enactment of the Model Act, states regulated real estate timesharing by authority of existing land sales and securities acts. A first version of the Model Act was introduced in 1979 but was replaced in 1982 with an updated version to address the growth patterns of the industry. Since its inception, the Model Act has been endorsed by the National Association of Realtors.

The timesharing industry continues to grow and diversify. It is a \$1.5 billion industry and is the fastest growing non-technological industry in America today. States have been very quick and active to respond to the need for specific legislation regulating timesharing.

-more-

Time Share Info

The fourteen states which adopted new timeshare laws in 1983 follow:
Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Maryland, Nevada,
North Carolina, Oregon, South Dakota, Utah, Washington and Wyoming.

According to Thomas C. Franks of the American Land Development Association (ALDA), "Approximately 25 of the 50 states considered timeshare legislation in 1983. Of the states actually passing laws this year, almost all borrowed provisions of the NTC/NARELLO Model Timeshare Act. The current boom in regulatory activity is evidence that the industry has a framework solid enough to regulate."

Following is a state-by-state review of the new timeshare laws introduced in 1983:

<u>STATE</u>	<u>MAJOR PROVISIONS/COMMENTS</u>
1. Alabama	5 day purchaser cancellation period for both fee simple and right-to-use timeshares; prior approval of advertising by Real Estate Commission; establishment of a special timeshare sales license.
2. Arkansas	5 day purchaser cancellation; escrow for incomplete projects and escrow of purchase deposit money during cancellation period required; filing of advertising within 10 days of use with Real Estate Commission required.
3. Colorado	passed amendments to the state's Subdivided Land Sales Act, placing right-to-use projects under the jurisdiction of the Real Estate Commission for purposes of registration.
4. Florida	requirement that all advertising materials be submitted to Division of Land Sales and Condominiums 10 days prior to use; rescission period is non-waivable; 100% escrow of purchaser deposits is required; some violations of new law punishable under the Florida racketeering statutes.
5. Georgia	structured to prevent future abuses with a disclosure and compliance approach to regulating the industry.

STATE

MAJOR PROVISIONS/COMMENTS

6. Louisiana
5 day non-waivable cancellation period; an escrow requirement of purchaser deposit during cancellation period; requirement that a public offering statement (POS) be delivered to purchaser prior to sale. Failure to deliver the POS gives one year voidability of contract right to purchaser.
7. Maryland
requires developer to purchase a surety bond to financially protect purchaser deposits on timeshare units until the deed or vacation license is recorded.
8. Nevada
based heavily on NTC/NARELLO Model Act; yet modifies sections to take into account the special problems of full compliance with the new requirements by ongoing hotel/casino vacation clubs.
9. North Carolina
5 day purchaser cancellation period; licensing of timeshare salespersons under North Carolina real estate law; exchange programs similar to NTC/NARELLO Model Act.
10. Oregon
5 day purchaser cancellation period; escrow requirements for purchaser payments; purchaser protections against encumbrances and liens.
11. South Dakota
requires project registration and the adoption of rules by the Real Estate Commission to regulate timesharing.
12. Utah
enacted timeshare amendments to Utah Land Sales Practices Act providing for 5 day non-waivable rescission period, delivery of a property report to consumers; disclosure on exchange matters, and financial protection for consumer purchases.
13. Washington
law calls for an application procedure consisting of disclosure document filing and an application for registration; sales and operations procedures also documented.
14. Wyoming
salesmen required to be licensed real estate brokers; salesmen who are salaried employees of the developer/owner of the project are exempt from licensing requirement.

INVESTOR ALERT

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January 1984

INVESTOR ALERT

VACATION TIMESHARING

Owning a piece of a resort property that guarantees you an annual vacation and the chance to use exchange privileges for other properties around the world is an alluring dream that has created the \$1.5 billion timeshare industry.

Thousands of timeshare buyers have realized this dream and are enjoying their timeshares in resorts throughout North America and around the world. However, for some buyers the reality is far different from the dream. The promoters' glamorous promises are not fulfilled, projects go bankrupt, trades for exotic spots don't materialize and those who bought under pressure come to regret their hasty decisions.

HOW TIMESHARING WORKS

The term "timeshare" was borrowed from the computer industry. It means that many individuals can gain access to one company's computer bank for a fee. Timesharing in real estate first appeared in Europe where, in the 1960s, escalating resort condominium costs prompted developers to come up with the idea of subdividing individual condominium units into time interval ownership plans, or timeshares. Vacationers, they discovered, could better afford to buy one or two weeks at a resort area than year-round ownership of a condominium unit.

Timesharing intervals have been sold in condominiums, cruise ships, houseboats, recreational vehicles, camp grounds, buses and airplanes. Two basic types of timeshare units are sold: fee simple--where the buyer gets title to a fraction of the unit; and right-to-use--where the purchaser is entitled to use the unit for a specified period of time, but does not have an ownership interest.

In a typical timesharing program, weeks (intervals) are offered at a golf, seaside or ski resort at prices ranging from \$5,000 to \$15,000, depending on the season, the quality of the accommodations and the location. Sales are normally financed over a period of years by the developer or an outside source. Generally, buyers pay a percentage of the price down and pay the rest in installments. In addition, they must pay annual maintenance fees and the cost of a resort exchange program.

BBB
Contact:

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Agency Contact:

4. Long-term ownership. A timeshare isn't a one shot deal. Prospective buyers should find out how the long-term management of the resort is to be provided for and should examine the operating budget to make sure it will meet the needs of the project over time.
5. Exchange programs. Offers of exchanges for other timeshares are usually an important consideration for timeshare buyers. But, there may be no assurance that the program will be able to provide the interval owner with another accommodation that is desirable or available at the time the owner wants to swap. There may be no assurance that the development one buys into will continue its contract with a given exchange, or with any exchange. Remember that exchanges rate participating units by desirability and other factors; buyers in a project that is not highly rated by an exchange cannot expect to "trade up" to fancier units, more appealing locations or better times of the year.
6. Maintenance costs. Be aware that the timeshare owner faces the risk that the annual maintenance fees (varying from \$125 to \$375) will rise as the property ages and upkeep becomes more expensive. The fee may not cover major repairs or other costs associated with normal wear and tear.
7. Payment. Make sure your money is held in an escrow account until your title to the unit you are buying is free and clear.
8. Consider the alternatives. Carefully consider all costs of buying a timeshare, including the alternative costs of taking a vacation every year. Can you afford the travel costs and other expenses of a vacation every year either to your unit or one you have exchanged for? Ask yourself if a traditional vacation may be more appealing or less expensive. Investors from out of state, or out of the country, might also find difficulty in suing to recover their money or for breach of contract without travel, to the state where the transaction took place.

GOVERNMENT REGULATION OF TIMESHARES

Currently the federal governments of the United States and Canada do not directly regulate the timeshare industry. Laws bearing on timeshare transactions vary from jurisdiction to jurisdiction. Potential customers should check with their state or provincial securities, real estate, or consumer protection agencies to determine what, if any, laws and regulations apply. Some states do require registration, the issuance of a prospectus by promoters and a cooling-off period after sales in which buyers may rescind the sale without penalty.

BEFORE YOU SIGN A SALES CONTRACT, be sure to get answers to the following questions--in writing.

1. What is the nature of your right in the property? What is your specific title? Does your contract give you an ownership, lease, or a security interest?
2. If your contract is for a leasehold timeshare, what is its duration: twenty years, forty years, or life?
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STATE-BY-STATE REVIEW OF LAWS REGULATING TIMESHARING

The following states regulate real estate timesharing either by authority of existing land sales and securities acts or recent legislation addressing timesharing specifically, current through most 1983 legislative sessions. The states have been very active and quick to respond to the need for timesharing legislation.

I. STATES REGULATING TIMESHARING BY SPECIFIC LEGISLATION

<u>State</u>	<u>Effective Date</u>	<u>Legislation</u>	<u>Administering Authority</u>
1. <u>Alabama</u>	10/1/83	New Timesharing Act	Real Estate Commission

Comments:

- A purchaser cancellation period of 5 days for both fee simple and right-to-use timeshare;
- Requirement for certain disclosures in sales contract;
- Requirement for prior approval of advertising by Commission;
- Establishment of a special timeshare sales license;
- Requirement for project registration with the Commission; and
- Establishment of escrow accounts for purchaser payments made in connection with timeshare sales.

2. <u>Arkansas</u>	2/25/83	New Timesharing Act	Real Estate Commission
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Comments:

- Registration with the Real Estate Commission;
- Requirement for delivery and distribution of public offering statement;
- 5-day purchaser cancellation period;
- Escrow for incomplete projects and escrow of purchase deposit money during cancellation period required; and
- Requires filing of advertising within 10 days of use with Commission.

Review of State Legislation

CORRECTION

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PROBLEMS

While many timeshare ventures have been successful, problems can arise for buyers in several areas.

Under a right-to-use (lease) agreement, the investor does not hold title to any property. If the project is unsound and fails, the entire investment can be lost. One east coast state government closed a timeshare company that allegedly did not own some of the property it was offering and was overselling properties it did own. Investors would have lost all their money were it not for a special state reimbursement fund.

Some timeshares are offered before construction has begun or adequate financing has been obtained. Investors' funds may be part of the actual construction money and if pre-construction sales of timeshare intervals are not up to the builder's expectations, the project may fail and buyers may lose their money. In one Colorado project, timeshares were being sold even though no construction loans had been obtained. When the company went bankrupt, the project was terminated and investors were left out in the cold.

TIPS FOR PROSPECTIVE BUYERS

1. It's a vacation. Don't look at a timeshare strictly as a real estate investment: it's a prepaid vacation accommodation and should be considered as an expenditure just like an annual vacation.

2. What to look for. Try to visit the site; if you cannot, consult reliable sources who are familiar with the area and the development. Do you like the area and will you enjoy returning to it year after year? Are you buying your interval for the time of year you usually take your vacation? Do you like the facilities offered? Is the project completed? Have you asked your Better Business Bureau for a reliability report on the developer or the manager?

Timeshares are sometimes sold through promotions offering "free" vacation certificates, prizes or gifts as inducements to inspect the developments. With vacation certificates, you may not always get what you expect. If you receive one in the mail or are offered one by telephone, find out if the "participating resort" where you will be staying is indeed "participating"; find out if you will end up having to pay a lot of money for travel expenses and extra charges for your "free" trip. Gifts and prizes also may not be what they seem; sometimes cheap imitations of quality goods are offered or the "prize" is deceptively described.

Remember that the free gift or vacation certificate is an inducement for you to listen to a sales presentation for an offer that involves a large sum of money. Bear in mind that a timeshare is a major investment and you want to know just what you are buying. Ask questions and do not sign anything unless you are fully aware of the consequences. Be extra wary if sales persons pressure you to sign and don't allow enough time to consider carefully the contract involved.

3. Nature of ownership. Determine whether the unit offered is a fee simple or right-to-use unit. Fee simple units are usually more expensive, but they may provide some tax benefits. They also allow the buyer to have a voice in the management of the resort. Right-to-use units often have a lower price and less management responsibility, but resale rights may be limited.

4. Long-term ownership. A timeshare isn't a one shot deal. Prospective buyers should find out how the long-term management of the resort is to be provided for and should examine the operating budget to make sure it will meet the needs of the project over time.

5. Exchange programs. Offers of exchanges for other timeshares are usually an important consideration for timeshare buyers. But, there may be no assurance that the program will be able to provide the interval owner with another accommodation that is desirable or available at the time the owner wants to swap. There may be no assurance that the development one buys into will continue its contract with a given exchange, or with any exchange. Remember that exchanges rate participating units by desirability and other factors; buyers in a project that is not highly rated by an exchange cannot expect to "trade up" to fancier units, more appealing locations or better times of the year.

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2. If your contract is for a leasehold timeshare, what is its duration: twenty years, forty years, or life?
3. Can you transfer the title of your timeshare, or does it revert back to the developer if you choose to leave? Can you sell your timeshare yourself, or does the developer have exclusive rights of sale?

4. If your title is for ownership, make sure that the contract waives the "right to partition" so that another tenant cannot compel the sale of the whole unit to get cash for his share.

5. Make sure that the contract is specific about maintenance fees. If such fees are not listed, will you be handed a bill for additional costs in several years? Will the fee increase each year?

6. Make sure the developer owns the property. If he holds it under a lease, is it certain that you can have your right to occupancy every year for the duration of your contract?

The securities administrator in your state, province or territory is responsible for the protection of investors. If you have doubts whether a particular offering or its sales representatives is duly registered, or if they fail to provide adequate information, contact the securities administrator listed in this Alert.

The Council of Better Business Bureaus and Better Business Bureaus in the United States and Canada answer inquiries on companies located in the areas they serve. Before putting money in any investment plan, it is a good idea to contact your Better Business Bureau for a reliability report on the company you intend to deal with. For more information, contact the BBB office listed in this Alert.

The Investor Alert is a quarterly program jointly sponsored by the Council of Better Business Bureaus and the North American Securities Administrators Association to expose investment frauds to the public and provide useful information on how to avoid the often sophisticated and unlawful schemes that prey on investors.

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- Establishment of a special timeshare sales license;
- Requirement for project registration with the Commission; and
- Establishment of escrow accounts for purchaser payments made in connection with timeshare sales.

2. <u>Arkansas</u>	2/25/83	New Timesharing Act	Real Estate Commission
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Comments:

- Registration with the Real Estate Commission;
- Requirement for delivery and distribution of public offering statement;
- 5-day purchaser cancellation period;
- Escrow for incomplete projects and escrow of purchase deposit money during cancellation period required; and
- Requires filing of advertising within 10 days of use with Commission.

Review of State Legislation

<u>State</u>	<u>Effective Date</u>	<u>Legislation</u>	<u>Administering Authority</u>
<u>3. Arizona</u>	4/14/82	New Timesharing Act	Arizona Real Estate Commission

Comments:

- Law provides that developer must demonstrate adequate financing to complete improvements.
- Law also requires public offering statement and no sales

<u>4. California</u>	1/1/82	Amendments to Land Section of Business and Professions Code	Department of Real Estate
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Comments:

- Law provides for public offering statement.
- Law also requires a three-day rescission period.
- Many additional substantive requirements.

<u>5. Colorado</u>	5/25/83	Amended subdivision law to cover timesharing	Real Estate Commission
<u>6. Connecticut</u>	7/1/82 Amended 10/1/82	Amendments to Subdivision Law	Real Estate Commission & Attorney General

Comments:

- Three separate pieces of legislation regulate timesharing. One amends the subdivision law to include timesharing, another adds additional consumer protections, and a third requires disclosures of prize offerings.
- Only a Connecticut broker may sell.
- Law requires a three-day rescission period.

<u>7. Florida</u>	7/1/81 Amended 7/1/83	Florida Real Estate Timesharing Act	Division of Florida Land Sales Condominiums in the Department of Business Regulation
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Comments:

- Law requires timesharing sellers to have a real estate sales or brokers license.
- Law requires 10-day rescission period.
- Escrow provisions.
- Criminal penalties
- Ban on sweepstakes effective 1/1/85
- Registration and delivery of public offering statement to purchasers.

<u>8. Georgia</u>	2/27/83	New Timesharing Act	Real Estate Commission
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Comments:

- A mixture of disclosure and compliance approach to the regulation of timesharing.

<u>State</u>	<u>Date</u>	<u>Legislation</u>	<u>Authority</u>
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<u>9. Hawaii</u>	Amended 1/1/82	New Timesharing Act Hawaii Revised Statutes	Regulatory Agencies
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Comments:

- Law requires public offering statement, five-day rescission period.
- Law requires "acquisition agents" to be licensed.
- Escrow provisions.

<u>10. Louisiana</u>	8/29/83	New Timesharing Act	Real Estate Commission
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Comments:

- A 5-day non-waivable purchaser cancellation period;
- An escrow requirement of purchaser deposit during cancellation period;
- A requirement for filing of a timeshare declaration with local parish conveyance office;
- Prohibitions on deceptive advertising and disclosure requirements;
- A requirement for timeshare salesmen to register with the Real Estate Commission; and
- The effective date of the bill is August 29, 1983, with exception of declaration filing, which must be completed by December 1, 1983.

<u>11. Maryland</u>	7/1/83	New Timesharing Act	Real Estate Commission and Attorney General
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Comments:

- Requires developer to purchase a surety bond to protect purchaser.

<u>12. Nebraska</u>	1/1/81	Nebraska Timesharing Act	Nebraska Real Estate Commission
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Comments:

- Law closely follows the National TimeSharing Council's model legislation.
- Law requires a three-day rescission period.

<u>13. Nevada</u>	5/19/83	New Timesharing Act	Real Estate Division
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Comments:

- Formulation of a timeshare salesman licensing system that is not unduly burdensome on the industry yet provides accountability; and
- Modifying certain sections of the bill to take into account the unique problems of full compliance with the new requirements by on-going hotel/casino vacation clubs.
- Registration and disclosure document.

<u>State</u>	<u>Effective Date</u>	<u>Legislation</u>	<u>Administering Authority</u>
<u>14. New Hampshire</u>	9/10/77	Land Sales Full Disclosure Act & Condominium Law	Consumer Protection Division of Attorney General's Office

Comments:

- Law contains prohibitions on gift and prize offerings.
- Law also contains five-day rescission period.

<u>15 North Carolina</u>	7/1/84	New Timesharing Act	Real Estate Division
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Comments:

- Escrow requirement for purchaser deposits;
- Licensing of timeshare salespersons under the North Carolina real estate law;
- Project registration with the Real Estate Division;
- Preparation and distribution of a public offering statement;
- Exchange provisions similar to NTC/NARELLO Model Act provisions.

<u>16. Oregon</u>	7/28/83	New Timesharing Act	Real Estate Division
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Comments:

- A 5-day purchaser cancellation period;
- Escrow requirements for purchaser payments;
- Purchaser protections against encumbrances and liens;
- Regulation of advertising practices; and
- Requires registration of timeshare developers with the Real Estate Commission.

<u>17. South Carolina</u>	10/1/79 Amended 6/15/81	New Timesharing Act	Real Estate Commission & Attorney General's Office
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Comments:

- Law provides for four-day rescission period.
- Liability and casualty insurance must be provided to purchaser.
- Special timesharing license for salespeople required.

<u>18. South Dakota</u>	7/1/83	New Timesharing Act	Real Estate Board
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Comments:

- Registration of timeshare developers.