

1 AN ACT concerning civil law.

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

4 Section 5. The Real Estate Timeshare Act of 1999 is amended
5 by changing Sections 1-15, 5-40, 5-45, 5-60, and 10-25 as
6 follows:

7 (765 ILCS 101/1-15)

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

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

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

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

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

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

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

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

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

20 "Developer" means and includes any person or entity, other
21 than a sales agent, acquisition agent, or resale agent, who
22 creates a timeshare plan or is in the business of selling
23 timeshare interests, or employs agents to do the same, or any
24 person or entity who succeeds to the interest of a developer by
25 sale, lease, assignment, mortgage, or other transfer, but the
26 term includes only those persons who offer timeshare interests

1 for disposition in the ordinary course of business.

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

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

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

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

21 "Offer" means any inducement, solicitation, or other
22 attempt, whether by marketing, advertisement, oral or written
23 presentation, or any other means, to encourage a person to
24 acquire a timeshare interest in a timeshare plan, other than as
25 security for an obligation.

26 "Person" means a natural person, corporation, limited

1 liability company, partnership, joint venture, association,
2 estate, trust, government, governmental subdivision or agency,
3 or other legal entity, or any combination thereof.

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

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

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

18 "Resale agent" means a person who, for another and for
19 compensation, or with the intention or expectation of receiving
20 compensation, either directly or indirectly ~~directly or~~
21 ~~through the person's employees or agents,~~ sells, ~~or~~ offers to
22 sell, or advertises to sell a timeshare interest previously
23 sold to a purchaser or solicits an owner of a timeshare
24 interest to list the owner's timeshare interest for sale.

25 "Reservation system" means the method, arrangement, or
26 procedure by which a purchaser, in order to reserve the use or

1 occupancy of any accommodation of a multi-site timeshare plan
2 for one or more timeshare periods, is required to compete with
3 other purchasers in the same multi-site timeshare plan,
4 regardless of whether the reservation system is operated and
5 maintained by the multi-site timeshare plan managing entity, an
6 exchange company, or any other person. In the event that a
7 purchaser is required to use an exchange program as the
8 purchaser's principal means of obtaining the right to use and
9 occupy accommodations, that arrangement shall be deemed a
10 reservation system. When an exchange company utilizes a
11 mechanism for the exchange of use of timeshare periods among
12 members of an exchange program, that utilization is not a
13 reservation system of a multi-site timeshare plan.

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

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

22 "Timeshare interest" means and includes either:

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

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

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

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

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

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

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

25 (B) a "non-specific timeshare interest", which is
26 the right to use accommodations at more than one

1 component site created by or acquired through the
2 timeshare plan's reservation system, but including no
3 specific right to use any particular accommodations.

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

8 Notwithstanding any other rulemaking authority that may
9 exist, neither the Governor nor any agency or agency head under
10 the jurisdiction of the Governor has any authority to make or
11 promulgate rules to implement or enforce the provisions of this
12 amendatory Act of the 95th General Assembly. If, however, the
13 Governor believes that rules are necessary to implement or
14 enforce the provisions of this amendatory Act of the 95th
15 General Assembly, the Governor may suggest rules to the General
16 Assembly by filing them with the Clerk of the House and
17 Secretary of the Senate and by requesting that the General
18 Assembly authorize such rulemaking by law, enact those
19 suggested rules into law, or take any other appropriate action
20 in the General Assembly's discretion. Nothing contained in this
21 amendatory Act of the 95th General Assembly shall be
22 interpreted to grant rulemaking authority under any other
23 Illinois statute where such authority is not otherwise
24 explicitly given. For the purposes of this amendatory Act of
25 the 95th General Assembly, "rules" is given the meaning
26 contained in Section 1-70 of the Illinois Administrative

1 Procedure Act, and "agency" and "agency head" are given the
2 meanings contained in Sections 1-20 and 1-25 of the Illinois
3 Administrative Procedure Act to the extent that such
4 definitions apply to agencies or agency heads under the
5 jurisdiction of the Governor.

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

7 (765 ILCS 101/5-40)

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

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

20 (1) Whether any person other than the timeshare
21 interest owner may use the timeshare interest during the
22 period before the timeshare interest is resold.

23 (2) Whether any person other than the timeshare
24 interest owner may rent or exchange the use of the
25 timeshare interest during the period before the timeshare

1 interest is resold.

2 (3) The name of any person who will receive any rents,
3 profits, or other consideration generated from the use of
4 the timeshare interest during the period before the
5 timeshare interest is resold.

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

9 (5) A description of any fee, including the amount, to
10 be paid by the timeshare interest owner to the resale agent
11 prior to the sale of the timeshare interest. If any such
12 fee is charged by the resale agent prior to the sale of the
13 timeshare interest, then a statement must be included
14 disclosing either (A) the number of timeshare interests
15 sold by the resale agent for each of the past 3 years or
16 (B) the ratio or percentage of the number of listings
17 versus the number of timeshare interests sold by the resale
18 agent for each of the past 3 years.

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

1 ~~timeshare interest.~~

2 (b) A resale agent shall maintain records as required by
3 rule. The records required to be maintained include, but are
4 not limited to, all listing agreements, copies of disbursement
5 authorizations in accordance with subsection (c), and resale
6 contracts.

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

13 "I, (name of owner), am the owner of a timeshare
14 interest in (name of timeshare plan). I understand that for
15 my protection I can require the entire fee to be held in
16 escrow until the closing on the resale of my timeshare
17 interest, but I am authorizing a release before the
18 transfer in the following amount: (amount written in words)
19 (\$ (amount in numbers)), for the following purpose or
20 purposes (description of purpose or purposes). I
21 understand that the resale agent is regulated by the Office
22 of Banks and Real Estate under the Real Estate Timeshare
23 Act of 1999. The Office of Banks and Real Estate requires
24 the resale agent to obtain this disbursement authorization
25 with my signature before disbursement of my funds."

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

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

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

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

7 (3) The current year's assessment for the common
8 expenses allocated to the timeshare interest being
9 purchased including the time period to which the assessment
10 relates and the date on which it is due. If not included in
11 the applicable common expense assessment, the amount of any
12 real or personal property taxes allocated to the timeshare
13 interest being purchased.

14 (3.5) Whether all assessments and real property taxes
15 against the timeshare interest are paid in full and, if
16 not, the amount owed and the consequences of failure to pay
17 any assessment or real property taxes.

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

22 (5) The entity responsible for providing notification
23 to the managing entity of the timeshare plan and the
24 applicable exchange company regarding any change in the
25 ownership of the timeshare interest.

26 (6) A statement of the first year in which the

1 purchaser is entitled to receive the actual use rights and
2 occupancy of the timeshare interest, as determined by the
3 managing entity of the timeshare plan and any exchange
4 company.

5 (6.5) The place where the documents of formation of the
6 association, if any, and the timeshare instrument may be
7 obtained, together with the following disclosure:

8 "There are many important documents relating to the
9 timeshare plan that you should review prior to purchasing a
10 timeshare interest, which may include the declaration of
11 restrictions, covenants, and conditions; the owners'
12 association articles and bylaws; the current year's
13 operating and reserve budgets; and any rules and
14 regulations affecting the use of the timeshare plan
15 accommodations and amenities."

16 (7) In making the disclosures required by this
17 subsection (d), the timeshare resale agent may rely upon
18 information provided in writing by the owner or managing
19 entity of the timeshare plan.

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

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

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

1 (f) Notwithstanding any other rulemaking authority that
2 may exist, neither the Governor nor any agency or agency head
3 under the jurisdiction of the Governor has any authority to
4 make or promulgate rules to implement or enforce the provisions
5 of this amendatory Act of the 95th General Assembly. If,
6 however, the Governor believes that rules are necessary to
7 implement or enforce the provisions of this amendatory Act of
8 the 95th General Assembly, the Governor may suggest rules to
9 the General Assembly by filing them with the Clerk of the House
10 and Secretary of the Senate and by requesting that the General
11 Assembly authorize such rulemaking by law, enact those
12 suggested rules into law, or take any other appropriate action
13 in the General Assembly's discretion. Nothing contained in this
14 amendatory Act of the 95th General Assembly shall be
15 interpreted to grant rulemaking authority under any other
16 Illinois statute where such authority is not otherwise
17 explicitly given. For the purposes of this amendatory Act of
18 the 95th General Assembly, "rules" is given the meaning
19 contained in Section 1-70 of the Illinois Administrative
20 Procedure Act, and "agency" and "agency head" are given the
21 meanings contained in Sections 1-20 and 1-25 of the Illinois
22 Administrative Procedure Act to the extent that such
23 definitions apply to agencies or agency heads under the
24 jurisdiction of the Governor.

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

1 (765 ILCS 101/5-45)

2 Sec. 5-45. Amendment to registration information or public
3 offering statement. The developer, resale agent, and exchange
4 company shall amend or supplement their disclosure documents
5 and registration information to reflect any material change in
6 any information required by this Act or the rules implementing
7 this Act. All such amendments, supplements, and changes shall
8 be filed with the Office of Banks and Real Estate within 30 ~~20~~
9 calendar days of the material change.

10 Notwithstanding any other rulemaking authority that may
11 exist, neither the Governor nor any agency or agency head under
12 the jurisdiction of the Governor has any authority to make or
13 promulgate rules to implement or enforce the provisions of this
14 amendatory Act of the 95th General Assembly. If, however, the
15 Governor believes that rules are necessary to implement or
16 enforce the provisions of this amendatory Act of the 95th
17 General Assembly, the Governor may suggest rules to the General
18 Assembly by filing them with the Clerk of the House and
19 Secretary of the Senate and by requesting that the General
20 Assembly authorize such rulemaking by law, enact those
21 suggested rules into law, or take any other appropriate action
22 in the General Assembly's discretion. Nothing contained in this
23 amendatory Act of the 95th General Assembly shall be
24 interpreted to grant rulemaking authority under any other
25 Illinois statute where such authority is not otherwise
26 explicitly given. For the purposes of this amendatory Act of

1 the 95th General Assembly, "rules" is given the meaning
2 contained in Section 1-70 of the Illinois Administrative
3 Procedure Act, and "agency" and "agency head" are given the
4 meanings contained in Sections 1-20 and 1-25 of the Illinois
5 Administrative Procedure Act to the extent that such
6 definitions apply to agencies or agency heads under the
7 jurisdiction of the Governor.

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

9 (765 ILCS 101/5-60)

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

11 (a) A developer or, exchange company, ~~or resale agent,~~ or
12 any of their agents, shall not sell, offer, or dispose of a
13 timeshare interest unless all necessary registrations are
14 filed and approved by the Office of Banks and Real Estate, or
15 while an order revoking or suspending a registration is in
16 effect.

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

1 must be submitted.

2 (c) Notwithstanding any other rulemaking authority that
3 may exist, neither the Governor nor any agency or agency head
4 under the jurisdiction of the Governor has any authority to
5 make or promulgate rules to implement or enforce the provisions
6 of this amendatory Act of the 95th General Assembly. If,
7 however, the Governor believes that rules are necessary to
8 implement or enforce the provisions of this amendatory Act of
9 the 95th General Assembly, the Governor may suggest rules to
10 the General Assembly by filing them with the Clerk of the House
11 and Secretary of the Senate and by requesting that the General
12 Assembly authorize such rulemaking by law, enact those
13 suggested rules into law, or take any other appropriate action
14 in the General Assembly's discretion. Nothing contained in this
15 amendatory Act of the 95th General Assembly shall be
16 interpreted to grant rulemaking authority under any other
17 Illinois statute where such authority is not otherwise
18 explicitly given. For the purposes of this amendatory Act of
19 the 95th General Assembly, "rules" is given the meaning
20 contained in Section 1-70 of the Illinois Administrative
21 Procedure Act, and "agency" and "agency head" are given the
22 meanings contained in Sections 1-20 and 1-25 of the Illinois
23 Administrative Procedure Act to the extent that such
24 definitions apply to agencies or agency heads under the
25 jurisdiction of the Governor.

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

1 (765 ILCS 101/10-25)

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

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

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

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

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

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

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

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

24 (1) That the purpose of the promotion is to sell
25 timeshare interests, which shall appear in bold face or

1 other conspicuous type.

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

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

8 (4) The complete rules of the promotion.

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

16 (6) Any other disclosures provided by rule.

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

21 (d) A developer or other person using a promotion in
22 connection with the offering of a timeshare interest shall
23 provide the disclosures required by this Section in writing or
24 electronically to the prospective purchaser at least once
25 before the earlier of (1) a reasonable period before the
26 scheduled sales presentation to ensure that the prospective

1 purchaser receives the disclosures before leaving to attend the
2 sales presentation or (2) the payment of any nonrefundable
3 monies by the prospective purchaser in regard to the promotion.

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

9 (f) Notwithstanding any other rulemaking authority that
10 may exist, neither the Governor nor any agency or agency head
11 under the jurisdiction of the Governor has any authority to
12 make or promulgate rules to implement or enforce the provisions
13 of this amendatory Act of the 95th General Assembly. If,
14 however, the Governor believes that rules are necessary to
15 implement or enforce the provisions of this amendatory Act of
16 the 95th General Assembly, the Governor may suggest rules to
17 the General Assembly by filing them with the Clerk of the House
18 and Secretary of the Senate and by requesting that the General
19 Assembly authorize such rulemaking by law, enact those
20 suggested rules into law, or take any other appropriate action
21 in the General Assembly's discretion. Nothing contained in this
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2 Procedure Act, and "agency" and "agency head" are given the
3 meanings contained in Sections 1-20 and 1-25 of the Illinois
4 Administrative Procedure Act to the extent that such
5 definitions apply to agencies or agency heads under the
6 jurisdiction of the Governor.

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

8 (765 ILCS 101/5-35 rep.)

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

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

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