

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 1-10, 1-15, 5-5, 5-15, 5-20, 5-25, 5-30,
6 5-40, 5-45, 5-50, 5-55, 5-60, 10-5, 10-15, 10-25, 10-30, 15-5,
7 15-10, 15-15, 15-20, 15-25, 15-30, 15-35, 15-40, 15-45, 15-50,
8 15-55, 15-60, 15-65, 15-70, 15-80, 20-5, 20-10, 20-15, 20-20,
9 and 20-25, and by adding Sections 10-45, 10-50, and 10-55 as
10 follows:

11 (765 ILCS 101/1-10)

12 Sec. 1-10. Scope of Act.

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

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

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

20 (3) Exchange programs as defined in this Act.

21 (4) Resale agents as defined in this Act.

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

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

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

4 (2) Timeshare plans, whether or not an accommodation is
5 located in Illinois, under which the prospective
6 purchaser's total financial obligation will be less than
7 \$1,500 during the entire term of the timeshare plan.

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

9 (765 ILCS 101/1-15)

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

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

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

24 "Advertisement" means any written, oral, or electronic
25 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 "Department" means the Department of Financial and
21 Professional Regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 "Timeshare interest" means and includes either:

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

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

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

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

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

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

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

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

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

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

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

22 (765 ILCS 101/5-5)

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

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

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

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

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

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

25 (765 ILCS 101/5-15)

1 Sec. 5-15. Developer registration requirements.

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

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

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

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

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

26 (4) All managing entities who manage any timeshare plan

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 contact person, and telephone number of the timeshare plan.

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

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

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

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

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

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

1 ~~Banks and Real Estate.~~

2 (9) The appropriate fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (G) A declaration as to whether the timeshare plan

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

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

12 (I) The required fee.

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

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

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

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

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

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

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

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

24 (765 ILCS 101/5-20)

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

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

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

18 (765 ILCS 101/5-25)

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

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

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

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

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

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

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

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

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

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

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

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

1 shall include, without limitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (765 ILCS 101/5-30)

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

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

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

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

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

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

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

1 interest.

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

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

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

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

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

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

1 which they are applied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 its request.

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

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

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

13 (765 ILCS 101/5-40)

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

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

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

3 (2) The term of the listing agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "I, (name of owner), am the owner of a timeshare
11 interest in (name of timeshare plan). I understand that for
12 my protection I can require the entire fee to be held in
13 escrow until the closing on the resale of my timeshare
14 interest, but I am authorizing a release before the
15 transfer in the following amount: (amount written in words)
16 (\$ (amount in numbers)), for the following purpose or
17 purposes (description of purpose or purposes). I
18 understand that the resale agent is regulated by the
19 Illinois Department of Financial and Professional
20 Regulation, or its successor agency, ~~Office of Banks and~~
21 ~~Real Estate~~ under the Real Estate Timeshare Act of 1999.
22 The Illinois Department of Financial and Professional
23 Regulation ~~Office of Banks and Real Estate~~ requires the
24 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 amount of the most recent ~~current year's~~
8 assessment for the common expenses allocated to the
9 timeshare interest being purchased including the time
10 period to which the assessment relates (e.g., monthly,
11 quarterly, yearly) and the date on which it is due. If not
12 included in the applicable common expense assessment, the
13 amount of any real or personal property taxes allocated to
14 the timeshare interest being purchased.

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

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

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

1 ownership of the timeshare interest.

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

7 (6.5) The name, address, telephone number, and website
8 (if applicable) where the governing documents of the
9 association, if any, and the timeshare instrument may be
10 obtained, together with the following disclosure:

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

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

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

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

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

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

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

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

18 (765 ILCS 101/5-45)

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

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

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

3 (765 ILCS 101/5-50)

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

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

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

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

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

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

26 (5) Exchange company registration. Registration shall

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

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

11 (765 ILCS 101/5-55)

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

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

21 (765 ILCS 101/5-60)

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

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

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

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

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

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

21 (765 ILCS 101/10-5)

22 Sec. 10-5. Management and operation provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (765 ILCS 101/10-15)

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

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

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

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

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

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

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

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

1 ~~of Banks and Real Estate.~~

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

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

6 (765 ILCS 101/10-25)

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

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

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

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

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

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

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

1 accommodations.

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

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

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

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

14 (4) The complete rules of the promotion.

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

22 (6) Any other disclosures provided by rule.

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

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

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

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

16 (765 ILCS 101/10-30)

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

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

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

8 (765 ILCS 101/10-45 new)

9 Sec. 10-45. Managing entity lien created.

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

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

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

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

23 (b) Managing entity liens pursuant to this Section are
24 created and attached when the charges described in Section
25 10-45(a) become due. If such amounts are payable in

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

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

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

11 (A) The name of the timeshare estate owner;

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

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

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

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

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

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

3 (C) The address of the managing entity;

4 (D) The timeshare use as the collateral; and

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

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

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

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

19 (765 ILCS 101/10-50 new)

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

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

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

1 pursuant to this Section 10-50; and

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

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

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

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

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

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

26 (A) By publishing notice of the public auction in

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

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

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

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

22 (A) The name of the timeshare estate owner;

23 (B) A general description of the timeshare estate;

24 and

25 (C) The terms of the public auction.

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

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

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

7 NOTICE OF SALE OF TIMESHARE ESTATE OR ESTATES UNDER SECTION
8 10-50 OF THE ILLINOIS REAL ESTATE TIMESHARE ACT OF 1999

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

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

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

5 Other terms may be announced at the public auction.

6 Signed.....

7 Holder of mortgage or authorized agent.

8 (5) The public notice required by Section
9 10-50(c)(1)(A) for foreclosing a managing entity lien
10 against a timeshare estate must be printed in substantially
11 the following form:

12 NOTICE OF SALE OF TIMESHARE ESTATE OR ESTATES UNDER SECTION
13 10-50 OF THE ILLINOIS REAL ESTATE TIMESHARE ACT OF 1999

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

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

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

11 Other terms may be announced at the public auction.

12 Signed

13 Managing entity lienholder or authorized agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (h) If the holder of a mortgage or managing entity lien
25 conducts a nonjudicial foreclosure pursuant to this Section
26 10-50, the holder of the mortgage or managing entity lien

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

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

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

14 (765 ILCS 101/10-55 new)

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

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

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

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

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

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

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

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

20 (765 ILCS 101/15-5)

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

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

2 (765 ILCS 101/15-10)

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

5 (a) The Department ~~Office of Banks and Real Estate~~ has the
6 authority to conduct hearings before an administrative law
7 judge on proceedings to revoke, suspend, place on probation,
8 reprimand, or refuse to issue or renew registrants registered
9 under this Act, or to impose a civil penalty not to exceed
10 \$25,000 upon any registrant registered under this Act.

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

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

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

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

12 (765 ILCS 101/15-15)

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

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

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

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

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

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

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

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

19 (765 ILCS 101/15-20)

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

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

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

8 (765 ILCS 101/15-25)

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

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

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

1 of the profession regulated by this Act.

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

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

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

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

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

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

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

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

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

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

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

19 (14) A registrant's engaging in any act that
20 constitutes a violation of Section 3-102, 3-103, 3-104, or
21 3-105 of the Illinois Human Rights Act.

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

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

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

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

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

13 (765 ILCS 101/15-30)

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

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

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

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

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

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

14 (765 ILCS 101/15-35)

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

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

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

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

8 (765 ILCS 101/15-40)

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

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

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

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

9 (765 ILCS 101/15-45)

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

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

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

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

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

22 (765 ILCS 101/15-50)

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

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

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

8 (765 ILCS 101/15-55)

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

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

17 (765 ILCS 101/15-60)

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

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

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

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

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

20 (765 ILCS 101/15-65)

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

1 ~~Commissioner~~ finds that the evidence indicates that the public
2 interest, safety, or welfare imperatively requires emergency
3 action. If the Secretary ~~Commissioner~~ temporarily suspends any
4 registration without a hearing, a hearing must be held within
5 30 calendar days after the suspension. The person whose
6 registration is suspended may seek a continuance of the
7 hearing, during which the suspension shall remain in effect.
8 The proceeding shall be concluded without appreciable delay.

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

10 (765 ILCS 101/15-70)

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

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

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

1 activity.

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

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

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

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

16 (765 ILCS 101/15-80)

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

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

24 (765 ILCS 101/20-5)

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

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

12 (765 ILCS 101/20-10)

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

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

17 (765 ILCS 101/20-15)

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

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

1 administration and enforcement of this Act.

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

3 (765 ILCS 101/20-20)

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

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

8 (765 ILCS 101/20-25)

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

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

1 (765 ILCS 101/5-35 rep.)

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

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

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