

**ASSEMBLY, No. 2705**

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**STATE OF NEW JERSEY**

**212th LEGISLATURE**

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INTRODUCED FEBRUARY 27, 2006

**Sponsored by:**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblyman Connors**

**SYNOPSIS**

The "New Jersey Real Estate Timeshare Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/13/2006)**

1 AN ACT concerning timeshare sales, supplementing chapter 15 of  
2 Title 45 of the Revised Statutes and amending P.L.1989, c.239  
3 and P.L.1977, c.419.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. (New section) Sections 1 through 36 of this act shall be  
9 known and may be cited as the "New Jersey Real Estate Timeshare  
10 Act."

11  
12 2. (New section) As used in sections 1 through 36 of this act:  
13 "Accommodation" means any apartment, condominium or  
14 cooperative unit, cabin, lodge, hotel or motel room, or other private  
15 or commercial structure containing toilet facilities therein that is  
16 designed and available, pursuant to applicable law, for use and  
17 occupancy as a residence by one or more individuals which is a part  
18 of the timeshare property.

19 "Advertisement" means any written, oral or electronic  
20 communication that is directed to or targeted to persons within the  
21 State and contains a promotion, inducement or offer to sell a  
22 timeshare plan, including but not limited to brochures, pamphlets,  
23 radio and television scripts, electronic media, telephone and direct  
24 mail solicitations and other means of promotion.

25 "Advertisement" does not mean:

26 (1) Any stockholder communication such as an annual report or  
27 interim financial report, proxy material, a registration statement, a  
28 securities prospectus, a registration, a property report or other  
29 material required to be delivered to a prospective purchaser by an  
30 agency of any state or federal government;

31 (2) Any oral or written statement disseminated by a developer to  
32 broadcast or print media, other than paid advertising or promotional  
33 material, regarding plans for the acquisition or development of  
34 timeshare property. However, any rebroadcast or any other  
35 dissemination of such oral statements to prospective purchasers by a  
36 seller in any manner, or any distribution of copies of newspaper  
37 magazine articles or press releases, or any other dissemination of  
38 such written statement to a prospective purchaser by a seller in any  
39 manner, shall constitute an advertisement; or

40 (3) Any communication addressed to and relating to the account  
41 of any person who has previously executed a contract for the sale or  
42 purchase of a timeshare period in a timeshare plan to which the  
43 communication relates shall not be considered advertising under  
44 this act, provided they are delivered to any person who has  
45 previously executed a contract for the purchase of a timeshare

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 interest or is an existing owner of a timeshare interest in a timeshare  
2 plan.

3 "Assessment" means the share of funds required for the payment  
4 of common expenses which is assessed from time to time against  
5 each timeshare interest by the association.

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

8 "Commission" means the New Jersey Real Estate Commission.

9 "Common expense" means casualty and liability insurance, and  
10 those expenses properly incurred for the maintenance, operation,  
11 and repair of all accommodations constituting the timeshare plan  
12 and any other expenses designated as common expenses by the  
13 timeshare instrument.

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

19 "Department" means the Department of Banking and Insurance.

20 "Developer" means and includes any person or entity, who  
21 creates a timeshare plan or is in the business of selling timeshare  
22 interests, or employs agents or brokers to do the same, or any  
23 person or entity who succeeds to the interest of a developer by sale,  
24 lease, assignment, mortgage or other transfer, except that the term  
25 shall include only those persons who offer timeshare interests for  
26 disposition in the ordinary course of business.

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

30 "Escrow agent" means an independent person, including an  
31 independent bonded escrow company, an independent financial  
32 institution whose accounts are insured by a governmental agency or  
33 instrumentality, or an independent licensed title insurance agent  
34 who is responsible for the receipt and disbursement of funds in  
35 accordance with this act. If the escrow agent is not located in the  
36 State of New Jersey, then this person shall subject themselves to the  
37 jurisdiction of the commission with respect to disputes that arise out  
38 of the provisions of this act.

39 "Incidental benefit" means an accommodation, product, service,  
40 discount, or other benefit which is offered to a prospective  
41 purchaser of a timeshare plan or to a purchaser of a timeshare plan  
42 prior to the  
43 expiration of his or her rescission period pursuant to section 18 of  
44 this act and which is not an exchange program, provided that:

45 (1) use or participation in the incidental benefit is completely  
46 voluntary;

47 (2) no costs of the incidental benefit are included as common  
48 expenses of the timeshare plan;

1 (3) the good faith represented aggregate value of all incidental  
2 benefits offered by a developer to a purchaser may not exceed 20  
3 percent of the actual price paid by the purchaser for his or her  
4 timeshare interest; and

5 (4) the purchaser is provided a disclosure that fairly describes  
6 the material terms of the incidental benefit. The term shall not  
7 include an offer of the use of the accommodations of the timeshare  
8 plan on a free or discounted one-time basis.

9 "Managing entity" means the person who undertakes the duties,  
10 responsibilities and obligations of the management of the timeshare  
11 property.

12 "Offer" means any inducement, solicitation, or other attempt,  
13 whether by marketing, advertisement, oral or written presentation or  
14 any other means, to encourage a person to acquire a timeshare  
15 interest in a timeshare plan, for gain or profit.

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

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

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

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

32 "Reservation system" means the method, arrangement or  
33 procedure by which a purchaser, in order to reserve the use or  
34 occupancy of any accommodation of a multi-site timeshare plan for  
35 one or more timeshare periods, is required to compete with other  
36 purchasers in the same multi-site timeshare plan, regardless of  
37 whether the reservation system is operated and maintained by the  
38 multi-site timeshare plan managing entity or any other person.

39 "Sales agent" means any person who performs within this State  
40 as an agent or employee of a developer any one or more of the  
41 services or acts as set forth in this act, and includes any real estate  
42 broker, broker salesperson or salesperson licensed pursuant to R.S.  
43 45:15-1 et seq., or any person who purports to act in any such  
44 capacity.

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

48 "Timeshare interest" means and includes either:

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

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

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

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

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

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

23 (a) A "specific timeshare interest," which means an interest  
24 wherein a purchaser has, only through a reservation system:

25 (i) a priority right to reserve accommodations at a specific  
26 timeshare property without competing with owners of timeshare  
27 interests at other component sites that are part of the multi-site  
28 timeshare plan, which priority right extends for at least 60 days; and

29 (ii) the right to reserve accommodations on a non-priority basis  
30 at other component sites that are part of the multi-site timeshare  
31 plan; or

32 (b) A "non-specific timeshare interest", which means an interest  
33 wherein a purchaser has, only through a reservation system, the  
34 right to reserve accommodations at any component site of the multi-  
35 site timeshare plan, with no priority right to reserve  
36 accommodations at any specific component site.

37 "Timeshare property" means one or more accommodations  
38 subject to the same timeshare instrument, together with any other  
39 property or rights to property appurtenant to those accommodations.  
40

41 3. (New section) This act shall apply to the following:

42 a. Timeshare plans with an accommodation or component site in  
43 the State; and

44 b. Timeshare plans without an accommodation or component  
45 site in this State if those timeshare plans are offered to be sold  
46 within this State, regardless of whether the offer originates from  
47 within or outside of this State.

- 1       4. (New section) a. This act shall not apply to any of the  
2 following:
- 3       (1) Timeshare plans, whether or not an accommodation or  
4 component site is located in the State, consisting of 10 or fewer  
5 timeshare interests;
- 6       (2) Timeshare plans, whether or not an accommodation or  
7 component site is located in this State, the use of which extends  
8 over any period of three years or less. For purposes of determining  
9 the term of a timeshare plan, the period of any renewal or renewal  
10 option shall be included;
- 11       (3) Timeshare plans, whether or not an accommodation or  
12 component site is located in the State, under which the prospective  
13 purchaser's total financial obligation will be equal to or less than  
14 \$3,000 during the entire term of the timeshare plan;
- 15       (4) Component sites of specific timeshare interest multi-site  
16 timeshare plans that are neither located in nor offered for sale in  
17 this State, except that these component sites are still subject to the  
18 disclosure requirements of section 10 of this act;
- 19       (5) Offers or dispositions of securities or units of interest issued  
20 by a real estate investment trust regulated under any State or federal  
21 statute;
- 22       (6) Offers or dispositions of securities currently registered with  
23 the Bureau of Securities within the Division of Consumer Affairs in  
24 the Department of Law and Public Safety.
- 25       b. A person shall not be required to register as a developer under  
26 this act if:
- 27       (1) The person is an owner of a timeshare interest who has  
28 acquired the timeshare interest for the person's own use and  
29 occupancy and who later offers it for resale in a single or isolated  
30 transaction; or
- 31       (2) The person is a managing entity or an association that is not  
32 otherwise a developer of a timeshare plan in its own right, solely  
33 while acting as an association or under a contract with an  
34 association to offer or sell a timeshare interest transferred to the  
35 association through foreclosure, deed in lieu of foreclosure, or  
36 gratuitous transfer, if such acts are performed in the regular course  
37 of, or as an incident to, the management of the association for its  
38 own account in the timeshare plan.
- 39       c. If a developer has already registered a timeshare plan under  
40 this act, the developer may offer or dispose of an interest in a  
41 timeshare plan that is not registered under this act if the developer  
42 is offering a timeshare interest in the additional timeshare plan to a  
43 current timeshare interest owner of a timeshare interest in a  
44 timeshare plan created or operated by that same developer subject  
45 to the rules and regulations adopted by the commission.
- 46       d. The commission may, from time to time, pursuant to any  
47 rules and regulations adopted pursuant to this act, exempt from any  
48 of the provisions of this act any timeshare plan, if it finds that the

1 enforcement of this act with respect to that plan is not necessary in  
2 the public interest, or required for the protection of purchasers, by  
3 reason of the small amount of the purchase price or the limited  
4 character of the offering.

5  
6 5. (New section) This act shall be administered by the New  
7 Jersey Real Estate Commission in the Department of Banking and  
8 Insurance.

9  
10 6. (New section) Except as provided in this section, no  
11 provision of this act shall invalidate or modify any provision of any  
12 zoning, subdivision, or building code, law, ordinance or regulation.  
13 In case of conflict between the provisions of this act and the  
14 provisions of any other law, ordinance or regulation governing or  
15 purporting to govern the creation, registration, disclosure  
16 requirements or sale of timeshare interests in a component site, the  
17 provisions of this act shall control.

18  
19 7. (New section) A timeshare plan may be created in any  
20 accommodation unless otherwise prohibited. A timeshare plan shall  
21 maintain a one-to-one purchaser-to-accommodation ratio, which  
22 means the ratio of the number of purchasers eligible to use the  
23 accommodations of a timeshare plan on a given day to the number  
24 of accommodations available for use within the plan on that day,  
25 such that the total number of purchasers eligible to use the  
26 accommodations of the timeshare plan during a given consecutive  
27 12-month period never exceeds the total number of  
28 accommodations available for use in the timeshare plan during that  
29 consecutive 12-month period. For purposes of the calculation under  
30 this section, each purchaser shall be counted at least once, and an  
31 individual accommodation shall not be counted more than one time  
32 per day per year. An owner of a timeshare interest who is  
33 delinquent in the payment of a timeshare plan assessment shall  
34 continue to be considered eligible to use the accommodations of the  
35 timeshare plan for purposes of calculating the one-to-one purchaser-  
36 to-accommodation ratio.

37  
38 8. (New section) a. A developer who sells, offers to sell, or  
39 attempts to solicit prospective purchasers in this State to purchase a  
40 timeshare interest, or any person who creates a timeshare plan with  
41 an accommodation in the State, shall register with the commission,  
42 on forms provided by the commission or in electronic formats  
43 authorized by the commission, all timeshare plans which have  
44 accommodations located in the State or which are sold or offered  
45 for sale to any individual located in the State.

46 b. Upon the submission of an application approved by the  
47 commission, the commission may grant a 90 day preliminary  
48 registration to allow the developer to begin offering and selling

1 timeshare interests in a timeshare plan regardless of whether the  
2 accommodations of the timeshare plan are located within or outside  
3 of the State. Upon submission of a substantially complete  
4 application for an abbreviated or comprehensive registration under  
5 this act, including all appropriate fees, to the commission prior to  
6 the expiration date of the preliminary registration, the preliminary  
7 registration will be automatically extended during the registration  
8 review period provided that the developer is actively and diligently  
9 pursuing registration under this act. The preliminary registration  
10 shall automatically terminate with respect to those timeshare  
11 interests covered by a final public offering statement that is issued  
12 before the scheduled termination date of the preliminary  
13 registration. The preliminary registration shall also terminate upon  
14 the issuance of any notice of rejection due to the developer's failure  
15 to comply with the provisions of this act.

16 To obtain a preliminary registration, the developer shall provide  
17 all of the following:

18 (1) Submit the reservation instrument to be used in a form  
19 previously approved by the department with at least the following  
20 provisions:

21 (a) The right of both the developer and the potential purchaser to  
22 unilaterally cancel the reservation at any time;

23 (b) The payment to the potential purchaser of his or her total  
24 deposit following cancellation of the reservation by either party;

25 (c) The placing of the deposit into an escrow account; and

26 (d) A statement to the effect that the offering has not yet received  
27 final approval from the commission, and that no offering can be  
28 made until an offering plan has been filed with, and accepted by,  
29 the commission;

30 (2) Agree to provide each potential purchaser with a copy of the  
31 preliminary public offering statement and an executed receipt for a  
32 copy before any money or other thing of value has been accepted by  
33 or on behalf of the developer in connection with the reservation;

34 (3) Agree to provide a copy of the reservation instrument signed  
35 by the potential purchaser and by or on behalf of the developer to  
36 the potential purchaser;

37 (4) Provide evidence acceptable to the commission that all funds  
38 received by the developer will be placed into an independent escrow  
39 account with instructions that no funds will be released until a final  
40 order of registration has been granted;

41 (5) Submit the filing fee for a preliminary registration as  
42 provided for by regulation. The filing fee shall be in addition to the  
43 filing fees for an abbreviated or comprehensive registration as  
44 established by this act;

45 (6) File all advertisements to be utilized by the developer under  
46 the preliminary registration with the commission before use.

47 All advertisements and advertising literature shall contain the  
48 following, or substantially similar, disclaimer:



1 "This advertising material is being used for the purpose of  
2 soliciting sales of timeshare interests.";

3 (7) Such other information as the commission may require in  
4 order to further the provisions of this act, to assure full and fair  
5 disclosure and for the protection of purchaser interests.

6 c. Prior to the issuance of an order of registration for an  
7 abbreviated or comprehensive registration, the commission may  
8 issue a conditional registration approval for a timeshare plan if the  
9 filing is deemed to be substantially complete by the commission  
10 and the commission determines that the deficiencies are likely to be  
11 corrected by the applicant in a reasonable time and manner. Once  
12 the commission issues a conditional registration approval, the  
13 applicant may begin entering into purchase contracts with the  
14 purchaser and provide the purchaser with the most current version  
15 of the public offering statement; however, no rescission period may  
16 begin to run until the final approved public offering statement is  
17 delivered to the purchaser. If there is no material difference  
18 between the documents provided to the purchaser pursuant to the  
19 conditional registration and the documents approved as part of the  
20 final order of approval, then those documents need not be delivered  
21 again to the purchaser. All purchase contracts that are executed  
22 under the authority of a conditional registration approval shall  
23 contain the following provisions:

24 (1) No escrow will close, funds will not be released from  
25 escrow, and the interest contracted for will not be conveyed until a  
26 final approved public offering statement for the timeshare plan is  
27 furnished to the purchaser.

28 (2) The contract may be rescinded, in which event the entire  
29 sum of money paid or advanced by the purchaser shall be returned  
30 if the purchaser or lessee is dissatisfied with the final public  
31 offering statement.

32 (3) The term for a conditional registration approval shall be six  
33 months from the date of approval by the commission, and may be  
34 extended upon application to the commission for an additional six  
35 month period.

36 d. A developer shall include in its application for registration  
37 with the commission, the following information:

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

41 (2) The name, location, mailing address, primary contact person  
42 and telephone number of the timeshare plan;

43 (3) The name and principal address of the developer's authorized  
44 New Jersey representative who shall be a licensed real estate broker  
45 licensed to maintain offices within this State;

46 (4) A declaration as to whether the timeshare plan is a single-  
47 site timeshare plan or a multi-site timeshare plan and, if a multi-site  
48 timeshare plan, whether it consists of specific timeshare interests or

1 non-specific timeshare interests;

2 (5) The name and principal address of all brokers within New  
3 Jersey who sell or offer to sell any timeshare interests in any  
4 timeshare plan offered by the developer to any person in this State,  
5 who shall be licensed as a real estate broker pursuant to R.S.45:15-1  
6 et seq., and who are the authorized representatives of the developer;

7 (6) The name and principal address of all non affiliated  
8 marketing entities who, by means of inducement, promotion or  
9 advertisement, attempt to encourage or procure prospective  
10 purchasers located in the State to attend a sales presentation for any  
11 timeshare plan offered by the developer or authorized broker;

12 (7) The name and principal address of all managing entities who  
13 manage the timeshare plan;

14 (8) A public offering statement which complies with the  
15 requirements of this act; and

16 (9) Any other information regarding the developer, timeshare  
17 plan, brokers, marketing entities or managing entities as required by  
18 the commission and established by the commission by regulation.

19 e. The developer shall comply with the following escrow  
20 requirements:

21 (1) A developer of a timeshare plan shall deposit with an escrow  
22 agent all funds which are received during the purchaser's  
23 cancellation period set forth in section 18 of this act, into an escrow  
24 account in a federally insured depository or a depository acceptable  
25 to the commission. The deposit of such funds shall be evidenced by  
26 an executed escrow agreement between the escrow agent and the  
27 developer. The escrow agreement shall include provisions that  
28 funds may be disbursed to the developer by the escrow agent from  
29 the escrow account only after expiration of the purchaser's  
30 cancellation period and in accordance with the purchase contract,  
31 subject to paragraph (2) of this subsection.

32 (2) If a developer contracts to sell a timeshare interest and the  
33 construction of any property in which the timeshare interest is  
34 located has not been completed, the developer, upon expiration of  
35 the cancellation period set forth in section 18 of this act, shall  
36 continue to maintain in an escrow account all funds received by or  
37 on behalf of the developer from the purchaser under the purchase  
38 contract. The commission shall establish by rule the type of  
39 documentation which shall be required for evidence of completion,  
40 including but not limited to a certificate of occupancy, a certificate  
41 of substantial completion, or equivalent certificate from a public  
42 safety inspection agency in the applicable jurisdiction. Funds shall  
43 be released from escrow as follows:

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

48 (b) If a purchaser defaults in the performance of the purchaser's

1 obligations under the purchase contract, the funds shall be paid to  
2 the developer.

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

8 (3) In lieu of the provisions in paragraphs (1) and (2) of this  
9 subsection, the commission may accept from the developer a surety  
10 bond, bond in lieu of escrow, irrevocable letter of credit or other  
11 financial assurance acceptable to the commission. Any acceptable  
12 financial assurance shall be in an amount equal to or in excess of  
13 the lesser of the funds which would otherwise be placed in escrow  
14 in accordance with the provisions of paragraph (1) of this  
15 subsection, or in an amount equal to the cost to complete the  
16 incomplete property in which the timeshare interest is located.  
17 However, in no event shall the amount be less than the amount of  
18 funds that would otherwise be placed in escrow pursuant to  
19 paragraph (1) of this subsection.

20 (4) The developer shall provide escrow account information to  
21 the commission and shall execute in writing an authorization  
22 consenting to an audit or examination of the account by the  
23 commission on forms provided by the commission. The developer  
24 shall comply with the reconciliation and records requirements  
25 established by rule by the commission. The developer shall make  
26 documents related to the escrow account or escrow obligation  
27 available to the commission upon the commission's request. The  
28 escrow agent shall maintain any disputed funds in the escrow  
29 account until either:

30 (a) Receipt of written direction agreed to by signature of all  
31 parties; or

32 (b) Deposit of the funds with a court of competent jurisdiction in  
33 which a civil action regarding the funds has been filed.

34 f. The commission may accept, as provided by regulation, an  
35 abbreviated registration application of a developer of a timeshare  
36 plan in which all accommodations are located outside of the State.  
37 The developer shall provide evidence that the timeshare plan is  
38 registered with the applicable regulatory agency in a state or  
39 jurisdiction where the timeshare plan is offered or sold, or that the  
40 timeshare plan is in compliance with the laws and regulations of the  
41 applicable state jurisdiction in which some or all of the  
42 accommodations are located, which state or jurisdiction shall have  
43 disclosure requirements that are substantially equivalent to or  
44 greater than the information required to be disclosed pursuant to  
45 subsection b. and c. of this section to purchasers in this State. A  
46 developer filing an abbreviated registration application shall  
47 provide the following:

48 (1) The developer's legal name, any assumed names used by the

- 1 developer, and the developer's principal office location, mailing  
2 address, primary contact person and telephone number;
- 3 (2) The name, location, mailing address, primary contact person  
4 and telephone number of the timeshare plan;
- 5 (3) The name and principal address of the developer's authorized  
6 New Jersey representative who shall be a licensed real estate broker  
7 licensed to maintain offices within this State;
- 8 (4) The name and principal address of all brokers within New  
9 Jersey who sell or offer to sell any timeshare interests in any  
10 timeshare plan offered by the developer to any person in this State,  
11 who shall be licensed as a real estate broker pursuant to R.S. 45:15-  
12 1 et seq., and who are the authorized representatives of the  
13 developer;
- 14 (5) The name and principal address of all non-affiliated  
15 marketing entities who, by means of inducement, promotion or  
16 advertisement, attempt to encourage or procure prospective  
17 purchasers located in the State to attend a sales presentation for any  
18 timeshare plan offered by the developer or authorized broker;
- 19 (6) The name and principal address of all managing entities who  
20 manage the timeshare plan;
- 21 (7) Evidence of registration or compliance with the laws and  
22 regulations of the jurisdiction in which the timeshare plan is  
23 located, approved or accepted;
- 24 (8) A declaration as to whether the timeshare plan is a single-  
25 site timeshare plan or a multi-site timeshare plan and, if a multi-site  
26 timeshare plan, whether it consists of specific timeshare interests or  
27 non-specific timeshare interests;
- 28 (9) Disclosure of each jurisdiction in which the developer has  
29 applied for registration of the timeshare plan, and whether the  
30 timeshare plan or its developer were denied registration or were the  
31 subject of any disciplinary proceeding;
- 32 (10) Copies of any disclosure documents required to be given to  
33 purchasers or required to be filed with the jurisdiction in which the  
34 timeshare plan is located, approved or accepted as may be requested  
35 by the commission;
- 36 (11) The appropriate fee; and
- 37 (12) Any other information regarding the developer, timeshare  
38 plan, brokers, marketing entities or managing entities as required by  
39 the commission and established by the commission by regulation.
- 40 A developer of a timeshare plan with any accommodation  
41 located in this State may not file an abbreviated filing with regard  
42 to such timeshare plan, with the exception of a succeeding  
43 developer after a merger or acquisition when the developer's  
44 timeshare plan was registered in this State prior to the merger or  
45 acquisition.
- 46
- 47 9. (New section) The developer shall have responsibility for  
48 each timeshare plan registered with the commission and for the

1 actions of any sales agent, managing entity or marketing entity  
2 utilized by the developer in the offering or promotional selling of  
3 any registered timeshare plan. Any violation of this act which  
4 occurs during the offering activities shall be a violation by the  
5 developer as well as by the sales agent, marketing entity or  
6 managing entity who actually committed the violation.  
7 Notwithstanding anything to the contrary in this act, the developer  
8 shall be responsible for the actions of the association and managing  
9 entity only while they are subject to the developer's control.

10  
11 10. (New section) a. A developer shall: (1) prepare a public  
12 offering statement; (2) provide the statement to each purchaser of a  
13 timeshare interest in any timeshare plan at the time of purchase; and  
14 (3) fully and accurately disclose those facts concerning the  
15 timeshare developer and timeshare plan that are required by this act  
16 or by regulations promulgated by the commission.

17 The public offering statement shall be in writing and dated and  
18 shall require the purchaser to certify in writing that the purchaser  
19 received the statement. Upon approval of the commission, the  
20 developer may offer to deliver the public offering statement and  
21 other documents on CD-ROM format, Internet website or other  
22 electronic media if the purchaser consents.

23 b. The public offering disclosure statement for a single-site  
24 timeshare plan shall include:

25 (1) The name and address of the developer;

26 (2) A description of the duration and operation of the timeshare  
27 plan;

28 (3) A description of the existing or proposed accommodations,  
29 including the type and number of timeshare interests in the  
30 accommodations expressed in periods of seven-day use availability  
31 or other time increments applicable to the timeshare plan. The  
32 description of each type of accommodation included in the  
33 timeshare plan shall be categorized by the number of bedrooms, the  
34 number of bathrooms, and sleeping capacity, and shall include a  
35 statement indicating whether the accommodation contains a full  
36 kitchen, which means a kitchen that has a minimum of a  
37 dishwasher, range, sink, oven, and refrigerator. If the  
38 accommodations are proposed or incomplete, a schedule for  
39 commencement, completion, and availability of the  
40 accommodations shall be provided;

41 (4) A description of any existing or proposed amenities of the  
42 timeshare plan and, if the amenities are proposed or incomplete, a  
43 schedule for commencement, completion, and availability of the  
44 amenities;

45 (5) The extent to which financial arrangements have been  
46 provided for the completion of all promised accommodations and  
47 amenities that are committed to be built;

48 (6) A description of the method and timing for performing

1 maintenance of the accommodations;

2 (7) A statement indicating that, on an annual basis, the sum of  
3 the nights that purchasers are entitled to use the accommodations  
4 does not exceed the number of nights the accommodations are  
5 available for use by the purchasers;

6 (8) A description of the method by which purchasers' use of the  
7 accommodations is scheduled;

8 (9) A statement that an association exists or is expected to be  
9 created or that such an association does not exist and is not  
10 expected to be created and, if such an association exists or is  
11 reasonably contemplated, a description of its powers and  
12 responsibilities;

13 (10) A statement that within seven days after receipt of the  
14 public offering statement or after execution of the purchase  
15 contract, whichever is later, a purchaser may cancel any purchase  
16 contract for a timeshare interest from a developer together with a  
17 statement providing the name and street address to which the  
18 purchaser should mail any notice of cancellation. However, if by  
19 agreement of the parties by and through the purchase contract, the  
20 purchase contract allows for cancellation of the purchase contract  
21 for a period of time exceeding seven days, then the public offering  
22 statement shall include a statement that the cancellation of the  
23 purchase contract is allowed for that period of time exceeding seven  
24 days;

25 (11) Copies of the following documents, if applicable, including  
26 any amendments to the documents, unless separately provided to  
27 the purchaser simultaneously with the public offering statement:

28 (a) the timeshare instrument;

29 (b) the association articles of incorporation;

30 (c) the association bylaws;

31 (d) the association rules; and

32 (e) any lease or contract, excluding the purchase contract and  
33 other loan documents required to be signed by the purchaser at  
34 closing;

35 (12) The name and principal address of the managing entity and  
36 a description of the procedures, if any, for altering the powers and  
37 responsibilities of the managing entity and for removing or  
38 replacing it;

39 (13) The current annual budget, if available, or the projected  
40 annual budget for the timeshare plan. The budget shall include:

41 (a) a statement of the amount reserved or budgeted for repairs or  
42 replacements, if any;

43 (b) the projected common expense liability, if any, by category  
44 of expenditure for the timeshare plan; and

45 (c) a statement of any services or expenses not reflected in the  
46 budget that the developer provides or pays;

47 (14) The projected assessments and a description of the method  
48 for calculating and apportioning those assessments among

1 purchasers;

2 (15) Any initial or special fee due from the purchaser at closing,  
3 together with a description of the purpose and method of calculating  
4 the fee;

5 (16) A description of any lien, defect, or encumbrance on or  
6 affecting title to the timeshare interest and, if applicable, a copy of  
7 each written warranty provided by the developer;

8 (17) A description of any bankruptcy that is pending or which  
9 has occurred within the past five years, pending civil or criminal  
10 proceeding, adjudication, or disciplinary action material to the  
11 timeshare plan of which the developer has knowledge;

12 (18) A description of any financing offered by or available  
13 through the developer;

14 (19) Any current or anticipated fees or charges to be paid by  
15 timeshare purchasers for the use of any accommodations or  
16 amenities related to the timeshare plan, and a statement that the fees  
17 or charges are subject to change;

18 (20) A description and amount of insurance coverage provided  
19 for the protection of the purchaser;

20 (21) The extent to which a timeshare interest may become  
21 subject to a tax lien or other lien arising out of claims against  
22 purchasers of different timeshare interests;

23 (22) A description of those matters required by section 18 of this  
24 act;

25 (23) A statement disclosing any right of first refusal or other  
26 restraint on the transfer of all or any portion of a timeshare interest;

27 (24) A statement disclosing that any deposit made in connection  
28 with the purchase of a timeshare interest shall be held by an escrow  
29 agent until expiration of any right to cancel the contract and that  
30 any deposit shall be returned to the purchaser if the purchaser  
31 elects to exercise the right of cancellation; or, if the commission  
32 accepts from the developer a surety bond, irrevocable letter of  
33 credit, or other form of financial assurance instead of an escrow  
34 deposit, a statement disclosing that the developer has provided a  
35 surety bond, irrevocable letter of credit, or other form of financial  
36 assurance in an amount equal to or in excess of the funds that would  
37 otherwise be held by an escrow agent and that the deposit shall be  
38 returned if the purchaser elects to exercise the right of cancellation;

39 (25) A description of the name and address of the exchange  
40 company and the method by which a purchaser accesses the  
41 exchange program, if the timeshare plan provides purchasers with  
42 the opportunity to participate in an exchange program; and

43 (26) Any other information the commission determines is  
44 necessary to protect prospective purchasers or to implement the  
45 purpose of this act.

46 The developer may also include any other information in the  
47 timeshare disclosure statement following approval by the  
48 commission.

- 1       c. The disclosure statement for a specific timeshare interest  
2 multi-site timeshare plan shall include:
- 3       (1) With regard to the timeshare property in which the purchaser  
4 will receive a specific timeshare interest that includes a reservation  
5 priority right, all of the applicable information related to that  
6 timeshare property as required under subsection b. of this section;
- 7       (2) With regard to the component site in which the purchaser  
8 does not receive a specific timeshare interest, the following  
9 information:
- 10      (a) a description of each component site, including the name and  
11 address of each component site;
- 12      (b) a description of each type of accommodation in each  
13 component site, categorized by the number of bedrooms, the  
14 number of bathrooms, and sleeping capacity, and a statement  
15 indicating whether the accommodation contains a full kitchen,  
16 which means a kitchen that has a minimum of a dishwasher, range,  
17 sink, oven, and refrigerator;
- 18      (c) a description of the amenities at each component site  
19 available for use by the purchaser;
- 20      (d) a description of the reservation system, which shall include:
- 21      (i) the entity responsible for operating the reservation system, its  
22 relationship to the developer, and the duration of any agreement for  
23 operation of the reservation system;
- 24      (ii) a summary of the rules governing access to and use of the  
25 reservation system; and
- 26      (iii) the existence of and explanation regarding any priority  
27 reservation features that affect a purchaser's ability to make  
28 reservations for the use of a given accommodation on a first-come,  
29 first-served basis;
- 30      (e) The name and principal address of the managing entity for  
31 the multi-site timeshare plan and a description of the procedures, if  
32 any, for altering the powers and responsibilities of the managing  
33 entity and for removing or replacing it;
- 34      (f) A description of any right to make additions to, substitutions  
35 in, or deletions from accommodations, amenities, or component  
36 sites, and a description of the basis on which accommodations,  
37 amenities, or component sites may be added to, substituted in, or  
38 deleted from the multi-site timeshare plan;
- 39      (g) A description of the purchaser's liability for any fees  
40 associated with the multi-site timeshare plan;
- 41      (h) The location of each component site of the multi-site  
42 timeshare plan, as well as any periodic adjustment or amendment to  
43 the reservation system that may be needed in order to respond to  
44 actual purchaser use patterns and changes in purchaser use demand  
45 for the accommodations existing at the time within the multi-site  
46 timeshare plan; and
- 47      (i) Any other information the commission determines is  
48 necessary to protect prospective purchasers or to implement the



1 purpose of this act.

2 d. The public offering statement for a non-specific timeshare  
3 interest multi-site timeshare plan shall include:

4 (1) The name and address of the developer;

5 (2) A description of the type of interest and usage rights the  
6 purchaser will receive;

7 (3) A description of the duration and operation of the timeshare  
8 plan;

9 (4) A description of the type of insurance coverage provided for  
10 each component site;

11 (5) An explanation of who holds title to the accommodations of  
12 each component site;

13 (6) A description of each component site, including the name  
14 and address of each component site;

15 (7) A description of the existing or proposed accommodations  
16 expressed in periods of seven-day use availability or other time  
17 increments applicable to the timeshare plan. The description of each  
18 type of accommodation included in the timeshare plan shall be  
19 categorized by the number of bedrooms, the number of bathrooms,  
20 and sleeping capacity, and shall include a statement indicating  
21 whether the accommodation contains a full kitchen, which means a  
22 kitchen that has a minimum of a dishwasher, range, sink, oven, and  
23 refrigerator. If the accommodations are proposed or incomplete, a  
24 schedule for commencement, completion and availability of the  
25 accommodations shall be provided;

26 (8) A statement that an association for the multi-site timeshare  
27 plan exists or is expected to be created or that such an association  
28 does not exist and is not expected to be created and, if such an  
29 association exists or is reasonably contemplated, a description of its  
30 powers and responsibilities;

31 (9) If applicable, copies of the following documents applicable  
32 to the multi-site timeshare plan, including any amendments to such  
33 documents, unless separately provided to the purchaser  
34 simultaneously with the timeshare disclosure statement:

35 (a) the timeshare instrument;

36 (b) the association articles of incorporation;

37 (c) the association bylaws; and

38 (d) the association rules;

39 (10) A description of the method and timing for performing  
40 maintenance of the accommodations;

41 (11) A statement indicating that, on an annual basis, the total  
42 number of purchasers eligible to use the accommodations of the  
43 timeshare plan during a given consecutive 12 month period never  
44 exceeds the total number of accommodations available for use in  
45 the timeshare plan during that consecutive 12 month period;

46 (12) A description of amenities available for use by the  
47 purchaser at each component site;

48 (13) The location of each component site of the multi-site

1 timeshare plan, as well as any periodic adjustment or amendment to  
2 the reservation system that may be needed in order to respond to  
3 actual purchaser use patterns and changes in purchaser use demand  
4 for the accommodations existing at the time within the multi-site  
5 timeshare plan;

6 (14) A description of any right to make any additions,  
7 substitutions, or deletions of accommodations, amenities, or  
8 component sites, and a description of the basis upon which  
9 accommodations, amenities, or component sites may be added to,  
10 substituted in, or deleted from the multi-site timeshare plan;

11 (15) A description of the reservation system that shall include all  
12 of the following:

13 (a) the entity responsible for operating the reservation system, its  
14 relationship to the developer, and the duration of any agreement for  
15 operation of the reservation system;

16 (b) a summary of the rules governing access to and use of the  
17 reservation system; and

18 (c) the existence of and an explanation regarding any priority  
19 reservation features that affect a purchaser's ability to make  
20 reservations for the use of a given accommodation on a first-come,  
21 first-served basis;

22 (16) The name and principal address of the managing entity for  
23 the multi-site timeshare plan and a description of the procedures, if  
24 any, for altering the powers and responsibilities of the managing  
25 entity and for removing or replacing it, and a description of the  
26 relationship between the multi-site timeshare plan managing entity  
27 and the managing entity of the component sites of the multi-site  
28 timeshare plan, if different from the multi-site timeshare plan  
29 managing entity;

30 (17) A statement that within seven days after receipt of the  
31 public offering statement or after execution of the purchase  
32 contract, whichever is later, a purchaser may cancel any purchase  
33 contract for a timeshare interest from a developer together with a  
34 statement providing the name and street address to which the  
35 purchaser should mail any notice of cancellation. However, if by  
36 agreement of the parties by and through the purchase contract, the  
37 purchase contract allows for cancellation of the purchase contract  
38 for a period of time exceeding seven days, then the public offering  
39 statement shall include a statement that the cancellation of the  
40 purchase contract is allowed for that period of time exceeding seven  
41 days;

42 (18) The current annual budget of the multi-site timeshare plan,  
43 if available, or the projected annual budget for the multi-site  
44 timeshare plan, which shall include:

45 (a) a statement of the amount reserved or budgeted, if any, for  
46 repairs, replacements, and refurbishment;

47 (b) the projected common expense liability, if any, by category  
48 of expenditure for the multi-site timeshare plan; and

- 1 (c) a statement of any services or expenses not reflected in the
- 2 budget that the developer provides or pays;
- 3 (19) The projected assessments and a description of the method
- 4 for calculating and apportioning those assessments among
- 5 purchasers of the multi-site timeshare plan;
- 6 (20) Any current fees or charges to be paid by purchasers for the
- 7 use of any amenities related to the timeshare plan and a statement
- 8 that the fees or charges are subject to change;
- 9 (21) Any initial or special fee due from the purchaser at closing,
- 10 together with a description of the purpose and method of calculating
- 11 the fee;
- 12 (22) A description of the purchaser's liability for any fees
- 13 associated with the multi-site timeshare plan;
- 14 (23) A description of any lien, defect, or encumbrance on or
- 15 affecting title to the timeshare interest and, if applicable, a copy of
- 16 each written warranty provided by the developer;
- 17 (24) The extent to which a timeshare interest may become
- 18 subject to a tax lien or other lien arising out of claims against
- 19 purchasers of different timeshare interests;
- 20 (25) A description of those matters required by section 18 of this
- 21 act;
- 22 (26) A description of any financing offered by or available
- 23 through the developer;
- 24 (27) A description of any bankruptcy that is pending or which
- 25 has occurred within the past five years, pending civil or criminal
- 26 proceeding, adjudication, or disciplinary action material to the
- 27 timeshare plan of which the developer has knowledge;
- 28 (28) A statement disclosing any right of first refusal or other
- 29 restraint on the transfer of all or a portion of a timeshare interest;
- 30 (29) A statement disclosing that any deposit made in connection
- 31 with the purchase of a timeshare interest shall be held by an escrow
- 32 agent until expiration of any right to cancel the contract and that
- 33 any deposit shall be returned to the purchaser if the purchaser elects
- 34 to exercise the right of cancellation; or, if the commission accepts
- 35 from the developer a surety bond, irrevocable letter of credit, or
- 36 other form of financial assurance instead of an escrow deposit, a
- 37 statement disclosing that the developer has provided a surety bond,
- 38 irrevocable letter of credit, or other form of financial assurance in
- 39 an amount equal to or in excess of the funds that would otherwise
- 40 be held by an escrow agent and that the deposit shall be returned if
- 41 the purchaser elects to exercise the right of cancellation;
- 42 (30) A description of the name and address of the exchange
- 43 company and the method by which a purchaser accesses the
- 44 exchange program, if the timeshare plan provides purchasers with
- 45 the opportunity to participate in an exchange program;
- 46 (31) Any other information the commission determines is
- 47 necessary to protect prospective purchasers or to implement the
- 48 purpose of this act. The developer may also include any other

1 information in the timeshare disclosure statement following  
2 approval by the commission.

3 e. The developer shall also distribute to the purchaser any  
4 additional documents as the commission may require for  
5 accommodations in this State as provided by regulation, including  
6 such additional documentation as may be required under the  
7 "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).  
8

9 11. (New section) a. Within 30 days after each annual  
10 anniversary date of an order registering the timeshare, or on or  
11 before a date set by the commission, and while the developer  
12 continues to offer any timeshare interests in the timeshare plan in  
13 this State, the developer shall file a report in the form prescribed by  
14 the rules and regulations promulgated by the commission. The  
15 report shall reflect any material changes in the information  
16 contained in the original or subsequently submitted applications or  
17 documents.

18 b. (1) The developer shall file amendments to its registration to  
19 reflect any material change in any information set forth in the  
20 project and disclosure documents. The developer shall notify the  
21 commission of the material change prior to implementation of the  
22 change, unless the change is beyond the control of the developer; in  
23 which event, the developer shall provide written notice to the  
24 commission as soon as reasonably practicable after the occurrence  
25 of the event. All amendments, supplements, and facts relevant to  
26 the material change shall be filed with the commission within 20  
27 calendar days of the material change.

28 (2) The developer may continue to sell timeshare interests in the  
29 timeshare plan so long as, prior to closing, the developer provides a  
30 notice to each purchaser that describes the material change and  
31 provides to each purchaser the previously approved public offering  
32 statement. If the change is material and adverse to the purchasers of  
33 the timeshare plan as a whole, as determined by the commission, no  
34 closing shall occur until the amendment relating to the material and  
35 adverse change has been approved by the commission. After the  
36 amendment relating to the material and adverse change has been  
37 approved and the amended public offering statement has been  
38 issued, the amended public offering statement shall be provided to  
39 the purchaser, and an additional seven-day rescission period shall  
40 commence. The developer shall be required to maintain evidence  
41 of the receipt by each purchaser of the amended public offering  
42 statement. If the commission refuses to approve the amendment  
43 relating to the material and adverse change, all sales made using the  
44 notice shall be subject to rescission and all funds returned.

45 (3) The developer shall update the public offering statement to  
46 reflect any changes to the timeshare plan that are not material and  
47 adverse, including the addition of any component sites, within a  
48 reasonable time as determined by the commission pursuant to

1 regulation.

2 c. Upon a determination by the commission that an annual report  
3 is no longer necessary for the protection of the public interest or  
4 that the developer no longer retains any interest and no longer has  
5 any contractual, bond or other obligations in the subdivision, the  
6 commission shall issue an order terminating the responsibilities of  
7 the developer under this act.

8  
9 12. (New section) Upon receipt of a substantially complete  
10 application for registration, in proper form and accompanied by the  
11 appropriate filing fees, the commission shall, within 10 business  
12 days of receipt of the registration, issue a notice of filing. The  
13 notice shall not be construed as an approval of the registration, or  
14 any portion thereof.

15  
16 13. (New section) Every registration required to be filed with  
17 the commission under this act shall be reviewed by the commission  
18 and the commission shall issue an order of registration in  
19 accordance with the following schedule:

20 a. As to comprehensive registrations, registrations shall be  
21 effective upon the issuance of an order of registration by the  
22 commission within 60 days after receipt and issuance of a notice of  
23 filing. The commission shall provide a list of deficiencies in the  
24 application, if any, within 60 days of the issuance of the notice of  
25 filing. If a list of deficiencies is not provided to the applicant  
26 within 60 days of issuance of the notice of filing, the timeshare plan  
27 shall be deemed registered unless the applicant has consented in  
28 writing to a delay.

29 b. As to abbreviated registrations, registration shall be effective  
30 upon the issuance of an order of registration by the commission 30  
31 days after receipt and issuance of a notice of filing. The commission  
32 shall provide a list of deficiencies in the application, if any, within  
33 30 days of the issuance of the notice of filing. If a list of  
34 deficiencies is not provided to the applicant within 30 days of the  
35 issuance of the notice of filing, the timeshare plan shall be deemed  
36 registered unless the applicant has consented in writing to a delay.

37 c. A preliminary registration shall be effective within 20 days of  
38 receipt, unless the commission provides to the applicant a written  
39 list of deficiencies in the application, if any, within 20 days of  
40 receipt of a completed application and fee. If a list of deficiencies  
41 is not provided to the applicant within 20 days of receipt of the  
42 application for a preliminary registration, the preliminary  
43 registration shall be deemed approved unless the applicant has  
44 consented in writing to a delay.

45  
46 14. (New section) a. If the commission determines upon  
47 inquiry and examination that any of the requirements of this act  
48 have not been met, the commission shall notify the applicant that

1 the application for registration shall be corrected as specified in  
2 writing within 30 days from the date the notice is received by the  
3 applicant. These findings shall be the result of the commission's  
4 preliminary inquiry and examination and no hearing shall be  
5 required as the basis for those findings.

6 b. In the event that the requirements of the deficiency notice are  
7 not met within the time frame provided in subsection a. of this  
8 section, and the applicant has not demonstrated a good faith effort  
9 to correct the deficiencies, the commission may enter an order  
10 rejecting the filing. The order shall include the factual and legal  
11 basis for the rejection and shall provide that, unless appealed as  
12 provided for in subsection c. of this section, the terms of the order  
13 shall become final after 45 days of delivery to the applicant.

14 c. Upon the applicant's receipt of an order of rejection, the  
15 applicant shall have the right to file an appeal with the commission  
16 and shall be entitled to a hearing thereon provided that the appeal is  
17 filed within 45 days of the applicant's receipt of the order of  
18 rejection. In the event that an appeal is filed by the applicant, the  
19 order of rejection shall not take effect until such time as a  
20 determination has been rendered on the appeal. While an appeal of  
21 an order of rejection remains pending, a timeshare plan which is the  
22 subject of the notice of filing referenced in the order of rejection  
23 shall not be considered registered.

24  
25 15. (New section) a. The fee for an initial registration shall be  
26 \$1,000 plus \$50 per timeshare interest, which fee shall not exceed  
27 \$7,500, unless otherwise provided by the commission pursuant to  
28 regulation to defray the cost of rendering the services required by  
29 the provisions of this act.

30 b. The commission may also provide, by regulation, for fees to  
31 cover the reasonable expenses of carrying out other responsibilities  
32 established under this act, including, but not limited to, fees for the  
33 processing of amendments, exemption applications and preliminary  
34 registrations.

35  
36 16. (New section) Unless otherwise provided by regulation, a  
37 developer, or any of its agents, shall not sell, offer, or dispose of a  
38 timeshare interest in this State unless all necessary registrations are  
39 filed and approved by the commission, or while an order revoking  
40 or suspending a registration is in effect.

41  
42 17. (New section) a. Before the first sale of a timeshare  
43 interest, the developer shall create or provide for a managing entity,  
44 which shall be either the developer, a separate manager or  
45 management firm, the board of directors of an owners' association,  
46 or some combination thereof.

47 b. The duties of the managing entity shall include, but not be  
48 limited to:

- 1 (1) Management and maintenance of all accommodations
- 2 constituting the timeshare plan;
- 3 (2) Collection of all assessments as provided in the timeshare
- 4 instrument;
- 5 (3) Providing to all purchasers each year an itemized annual
- 6 budget, which shall include all estimated revenues and expenses;
- 7 (4) Maintenance of all books and records concerning the
- 8 timeshare plan;
- 9 (5) Scheduling occupancy of accommodations, when purchasers
- 10 are not entitled to use specific timeshare periods, so that all
- 11 purchasers will be provided the opportunity to possess and use the
- 12 accommodations of the timeshare plan which they have purchased;
- 13 and
- 14 (6) Performing any other functions and duties that are necessary
- 15 and proper to maintain the accommodations or that are required by
- 16 the timeshare instrument.
- 17 c. In the event a developer, managing entity or association files
- 18 a complaint in a foreclosure proceeding involving timeshare
- 19 interests, the developer, managing entity or association may join in
- 20 the same action multiple defendant obligors and junior interest
- 21 holders of separate timeshare interests, provided:
- 22 (1) The foreclosure proceeding involves a single timeshare plan;
- 23 (2) The foreclosure proceeding is filed by a single plaintiff;
- 24 (3) The default and remedy provisions in the written instruments
- 25 on which the foreclosure proceeding is based are substantially the
- 26 same for each defendant; and
- 27 (4) The nature of the defaults alleged is the same for each
- 28 defendant.
- 29 d. In any foreclosure proceeding involving multiple defendants
- 30 filed under subsection c. of this section, the court shall, if
- 31 appropriate, sever for separate trial any count of the complaint in
- 32 which a defense or counterclaim is timely raised by a defendant.
- 33
- 34 18. (New section) Any purchase contract entered into by a
- 35 purchaser of a timeshare interest under this act shall be voidable by
- 36 the purchaser, without penalty, within seven calendar days after the
- 37 receipt of the public offering statement or the execution of the
- 38 purchase contract, whichever date is later. The purchase contract
- 39 shall provide notice of the seven-day cancellation period, together
- 40 with the name and mailing address to which any notice of
- 41 cancellation shall be delivered. Notice of cancellation shall be
- 42 timely if the notice is deposited with the United States Postal
- 43 Service not later than midnight of the seventh day. Upon such
- 44 cancellation, the developer shall refund to the purchaser all
- 45 payments made by the purchaser, less the amount of any benefits
- 46 actually received pursuant to the purchase contract. The refund
- 47 shall be made within 30 days after the receipt of the notice of
- 48 cancellation, or receipt of funds from the purchaser's cleared check,

1   whichever occurs later. If a purchaser elects to cancel a purchase  
2   contract pursuant to this section, the purchaser may do so by hand  
3   delivering a written notice of cancellation or by mailing a notice of  
4   cancellation by certified mail, return receipt requested, to the  
5   developer, as applicable, at an address set forth in the purchase  
6   contract.

7  
8       19. (New section) Excluding any encumbrance placed against  
9   the purchaser's timeshare interest securing the purchaser's payment  
10   of purchase money financing for the purchase, the developer shall  
11   not be entitled to the release of any funds escrowed with respect to  
12   each timeshare interest and any other property or rights to property  
13   appurtenant to the timeshare interest, including any amenities  
14   represented to the purchaser as being part of the timeshare plan,  
15   until the developer has provided satisfactory evidence to the  
16   commission of one of the following:

17       a. The timeshare interest together with any other property or  
18   rights to property appurtenant to the timeshare interest, including  
19   any amenities represented to the purchaser as being part of the  
20   timeshare plan, are free and clear of any of the claims of the  
21   developer, any owner of the underlying fee, a mortgagee, judgment  
22   creditor, or other lienor or any other person having an interest in or  
23   lien or encumbrance against the timeshare interest or appurtenant  
24   property or property rights;

25       b. The developer, any owner of the underlying fee, a mortgagee,  
26   judgment creditor, or other lienor, or any other person having an  
27   interest in or lien or encumbrance against the timeshare interest or  
28   appurtenant property or property rights, including any amenities  
29   represented to the purchaser as being part of the timeshare plan, has  
30   recorded a subordination and notice to creditors document in the  
31   jurisdiction in which the timeshare interest is located. The  
32   subordination document shall expressly and effectively provide that  
33   the interest holder's right, lien or encumbrance shall not adversely  
34   affect, and shall be subordinate to, the rights of the owners of the  
35   timeshare interests in the timeshare plan regardless of the date of  
36   purchase, from and after the effective date of the subordination  
37   document;

38       c. The developer, any owner of the underlying fee, a mortgagee,  
39   judgment creditor, or other lienor, or any other person having an  
40   interest in or lien or encumbrance against the timeshare interest or  
41   appurtenant property or property rights, including any amenities  
42   represented to the purchaser as being part of the timeshare plan, has  
43   transferred the subject accommodations or amenities or all use  
44   rights therein to a nonprofit organization or owners' association to  
45   be held for the use and benefit of the purchasers of the timeshare  
46   plan, which entity shall act as a fiduciary to the purchasers,  
47   provided that the developer has transferred control of that entity to  
48   the purchasers or does not exercise its voting rights in that entity



1 with respect to the subject accommodations or amenities. Prior to  
2 the transfer, any lien or other encumbrance against the  
3 accommodation or facility shall be made subject to a subordination  
4 and notice to creditors instrument pursuant to subsection b. of this  
5 section; or

6 d. Alternative arrangements have been made which are adequate  
7 to protect the rights of the purchasers of the timeshare interests and  
8 are approved by the commission.  
9

10 20. (New section) a. A sales agent in New Jersey shall comply  
11 with the provisions of R.S.45:15-1 et seq., and the regulations  
12 adopted pursuant thereto, including licensure requirements, unless  
13 otherwise exempt by law.

14 b. A timeshare interest owner, who, for non-monetary  
15 compensation, as provided for in this act and by regulation, refers in  
16 a calendar year no more than 12 prospective purchasers of  
17 timeshare interests in the timeshare plan shall not be required to be  
18 licensed pursuant to R.S.45:15-1 et seq., provided the referring  
19 timeshare interest owner does not show, discuss terms or conditions  
20 of purchase or otherwise participate in negotiations with regard to  
21 the timeshare purchase. Examples of non-monetary compensation  
22 shall include, but shall not be limited to, the following:

- 23 (1) Waiver of association maintenance fees;  
24 (2) Free meals at a restaurant or rounds of golf at a golf course;  
25 (3) Points or other non-monetary currency associated with hotel,  
26 timeshare or other loyalty programs; or  
27 (4) Other benefits specifically associated with the timeshare  
28 plan.

29 c. A person licensed under R.S.45:15-1 et seq., who also is a  
30 bona fide owner of a timeshare property, shall be entitled to receive  
31 non-monetary compensation as defined in subsection b. of this  
32 section on the same basis as any other owner of a timeshare  
33 property. The non-monetary compensation or referral pursuant to  
34 subsection b. of this section shall not fall within the scope of  
35 R.S.45:15-1 et seq. or the rules and regulations implementing  
36 R.S.45:15-1 et seq.  
37

38 21. (New section) a. A developer or other person offering a  
39 timeshare plan shall not:

- 40 (1) Misrepresent a fact material to a purchaser's decision to buy  
41 a timeshare interest;  
42 (2) Predict any increase in the value of a timeshare interest  
43 represented over a period of time, excluding bona fide pending  
44 price increases by the developer;  
45 (3) Materially misrepresent the qualities or characteristics of  
46 accommodations or the amenities available to the occupant of those  
47 accommodations;  
48 (4) Misrepresent the length of time accommodations or amenities

1 will be available to the purchaser of a timeshare interest; or

2 (5) Misrepresent the conditions under which a purchaser of a  
3 timeshare interest may exchange the right of the purchaser's  
4 occupancy for the right to occupy other accommodations.

5 b. A developer or other person using a promotion in connection  
6 with the offering of a timeshare interest shall clearly disclose all of  
7 the following:

8 (1) That the purpose of the promotion is to sell timeshare  
9 interests, which shall appear in bold face or other conspicuous type  
10 on all promotional materials;

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

13 (3) The name of each developer or other person trying to sell a  
14 timeshare interest through the promotion, and the name of each  
15 person paying for the promotion if different from the developer;

16 (4) The complete details of participation in the promotion;

17 (5) The method of awarding premiums or other benefits under  
18 the promotion;

19 (6) A complete and fully detailed description, including  
20 approximate retail value of each premium or benefit under the  
21 promotion if the retail value of the premium or benefit is over \$50;

22 (7) The quantity of each premium to be awarded or conferred;

23 (8) The date by which each premium or benefit will be awarded  
24 or conferred; and

25 (9) Any other disclosures required by the commission pursuant  
26 to regulation.

27 c. The required disclosures for an advertisement that contains a  
28 promotion in connection with the offering of a timeshare interest  
29 shall be provided or otherwise made available to prospective  
30 purchasers in writing or electronically at least once prior to any  
31 scheduled sales presentation and received by the prospective  
32 purchasers prior to their leaving to attend the sales presentation.  
33 The required disclosures need not be included in every written, oral  
34 or electronic communication to the prospective purchaser prior to  
35 the sales presentation.

36 d. If a person represents that a premium or benefit will be  
37 awarded in connection with a promotion, the premium or benefit  
38 shall be awarded or conferred in the manner represented, and on or  
39 before the date represented for awarding or conferring the premium  
40 or benefit.

41

42 22. (New section) The managing entity shall keep detailed  
43 financial records directly related to the operation of the time share  
44 plan. All financial and other records shall be made reasonably  
45 available for examination by any purchaser, or the authorized agent  
46 of the purchaser, and the commission. The managing entity may  
47 charge the purchaser a reasonable fee for copying any requested  
48 information.

1       23. (New section) Every developer shall maintain, for a period  
2 of two years, records of any real estate brokers, broker-salespersons  
3 or salespersons licensed in the State and employed by the  
4 developer, as well as all other managerial employees located in the  
5 State and employed by the developer, including the last known  
6 address of each of those individuals.

7

8       24. (New section) No action for partition of a timeshare interest  
9 may be initiated except as permitted by the timeshare instrument.

10

11       25. (New section) The commission may refuse to issue or renew  
12 any registration, or revoke or suspend any registration or place on  
13 probation or administrative supervision, or reprimand any  
14 registrant, or impose an administrative penalty not to exceed  
15 \$50,000, in a summary proceeding pursuant to the "Penalty  
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),  
17 after notice and an opportunity to be heard, for any of the following  
18 causes:

19       a. A registrant's violation of any provision of this act or of the  
20 regulations adopted by the commission to enforce this act.

21       b. A conviction of the registrant or any principal of the  
22 registrant of:

23           (1) A felony that is punishable by death or imprisonment for a  
24 term exceeding one year under the laws of any state or federal  
25 jurisdiction;

26           (2) A misdemeanor under the laws of any state or federal  
27 jurisdiction if an essential element of the offense is dishonesty; or

28           (3) Any crime under the laws of any state or federal jurisdiction  
29 if the crime relates directly to the practice of the profession  
30 regulated by this act.

31       c. A registrant's making any misrepresentation for the purpose  
32 of obtaining an order of registration or exemption.

33       d. A registrant's discipline in another state or federal  
34 jurisdiction, State agency, or foreign country regarding the practice  
35 of the profession regulated by this act, if at least one of the grounds  
36 for the discipline is the same as or substantially equivalent to one of  
37 those set forth in this act.

38       e. A finding by the commission that the registrant, after having  
39 his registration placed on probationary status, has violated the terms  
40 of probation.

41       f. A registrant's practicing or attempting to practice under a  
42 name other than the name as shown on his registration or any other  
43 legally authorized name.

44       g. A registrant's failure to file a return, or to pay the tax, penalty,  
45 or interest shown in a filed return, or to pay any final assessment of  
46 tax, penalty, or interest, as required by any tax law administered by  
47 the State Department of Treasury or any local government entity,  
48 until the requirements of any tax are satisfied.

- 1       h. A registrant's engaging in any conduct likely to deceive,  
2 defraud or harm the public.
- 3       i. A registrant's aiding or abetting another person in violating  
4 any provision of this act or of the regulations adopted by the  
5 commission to enforce this act.
- 6       j. Any representation in any document or information filed with  
7 the commission that is materially false or misleading.
- 8       k. A registrant's disseminating or causing to be disseminated any  
9 materially false or misleading promotional materials or  
10 advertisements in connection with a timeshare plan.
- 11      l. A registrant's concealing, diverting, or disposing of any funds  
12 or assets of any person in a manner that impairs the rights of  
13 purchasers of timeshare interests in the timeshare plan.
- 14      m. A registrant's failure to perform any stipulation or agreement  
15 made to induce the commission to issue an order relating to the  
16 timeshare plan.
- 17      n. A registrant's, or its agents or brokers engaging in any act that  
18 constitutes a violation of the "Law Against Discrimination,"  
19 P.L.1945, c.169 (C.10:5-1 et seq.).
- 20      o. A registrant's, or its agent's or broker's failure to provide  
21 information requested in writing by the commission, either as the  
22 result of a complaint to the commission or as a result of a random  
23 audit conducted by the commission, which would indicate a  
24 violation of this act.
- 25      p. A registrant's, or its agent's or broker's, failure to account for  
26 or remit any escrow funds coming into his possession which  
27 belonged to others.
- 28      q. A registrant's, or its agent's or broker's, failure to make  
29 available to commission personnel during normal business hours all  
30 escrow records and related documents maintained in connection  
31 therewith, within a reasonable period of time after a request from  
32 the commission personnel, but in no event later than five business  
33 days from the request.  
34
- 35      26. (New section) The commission may:
  - 36       a. Accept registrations filed in this State, in other states, or with  
37 the federal government;
  - 38       b. Contract with similar agencies in this State or other  
39 jurisdictions to perform investigative functions;
  - 40       c. Accept grants-in-aid from any governmental or other source;
  - 41       d. Cooperate with similar agencies or commissions in this State  
42 or other jurisdictions to establish uniform filing procedures and  
43 forms, uniform public offering statements, advertising standards,  
44 rules and common administrative practices;
  - 45       e. Grant exemptions pursuant to the rules and regulations  
46 adopted pursuant to this act;
  - 47       f. Make any necessary public or private investigations within or  
48 outside of this State to determine whether any person has violated

1 or is about to violate any provision of this act, or to aid in the  
2 enforcement of this act or in the prescribing of rules and regulations  
3 and forms hereunder;

4 g. Require or permit any person to file a statement in writing,  
5 under oath or otherwise, as the commission determines, as to all the  
6 facts and circumstances concerning any matter to be investigated;

7 h. For the purpose of any investigation or proceeding under this  
8 act, the commission or any officer designated by regulation, may  
9 administer oaths, or affirmations, and upon its own motion or upon  
10 request of any party may subpoena witnesses and compel their  
11 attendance, take evidence, and require the production of any matter  
12 which is relevant to the investigation, including the existence,  
13 description, nature, custody, condition and location of any books,  
14 documents, or other tangible things and the identity and location of  
15 persons having knowledge of relevant facts or any other matter  
16 reasonably calculated to lead to the discovery of material evidence;  
17 and

18 i. Upon failure to obey a subpoena or to answer questions  
19 propounded by the investigating officer and upon reasonable notice  
20 to all persons affected thereby, the commission may apply to the  
21 Superior Court for an order compelling compliance with the  
22 subpoena.

23  
24 27. (New section) a. If the commission determines after notice  
25 and hearing that a person has:

26 (1) Violated any provision of this act;

27 (2) Directly or through an agent or employee engaged in any  
28 false, deceptive, or misleading advertising, promotional or sales  
29 methods in the State to offer or dispose of an interest in the  
30 timeshare plan;

31 (3) Made any material change in the plan of disposition and  
32 development of the timeshare plan subsequent to the order of  
33 registration without first complying with the provisions of section  
34 11 of this act;

35 (4) Disposed of any timeshare plan which have not been  
36 registered with the commission; or

37 (5) Violated any lawful order or rule or regulation of the  
38 commission;

39 The commission may issue an order requiring the person to cease  
40 and desist from the unlawful practice and to take such affirmative  
41 action as in the judgment of the commission will carry out the  
42 purposes of this act.

43 b. If the commission makes a finding of fact in writing that the  
44 public interest will be irreparably harmed by delay in issuing an  
45 order, the commission may issue a temporary cease and desist  
46 order. Every temporary cease and desist order shall include in its  
47 terms a provision that upon request a hearing will be held within 15  
48 days of the receipt of the request.

1       28. (New section) a. If it appears that a person has engaged, or  
2 is about to engage, in an act or practice constituting a violation of a  
3 provision of this act, the commission, with or without prior  
4 administrative proceedings, may bring an action in the Superior  
5 Court to enjoin the acts or practices and to enforce compliance with  
6 this act or any rule, regulation or order hereunder. Upon proper  
7 showing, injunctive relief or a temporary restraining order shall be  
8 granted, and a receiver may be appointed. The commission shall  
9 not be required to post a bond in any court proceeding.

10       b. The commission may intervene in any suit relating to this act.  
11 Each developer registered pursuant to this act shall provide the  
12 commission with notice of any lawsuit that is filed against the  
13 developer or the registered timeshare plan that relates to rights,  
14 duties, or responsibilities of the developer or timeshare plan as set  
15 forth in this act.

16

17       29. (New section) a. For purposes of this act, an application for  
18 registration submitted to the commission shall be deemed a  
19 submission, by the applicant, to the jurisdiction of the courts of the  
20 State of New Jersey.

21       b. In addition to the methods of service provided for in the Rules  
22 of Court, service may be made by delivering a copy of the process  
23 to a person designated by the commission to receive the process at  
24 its office, but that service shall not be effective unless the plaintiff,  
25 which may be the commission, in a proceeding instituted by it:

26       (1) Sends a copy of the process and the pleading by certified  
27 mail to the defendant or respondent at his last known address; and

28       (2) The plaintiff's affidavit of compliance with this section is  
29 filed in the case on or before the return day of the process, if any, or  
30 within the time as the court allows.

31       c. If any person, including any nonresident of this State, engages  
32 in conduct prohibited by this act and has not filed a consent to  
33 service of process, and personal jurisdiction over him cannot  
34 otherwise be obtained in this State, that conduct authorizes the  
35 commission to receive service of process, in any non criminal  
36 proceedings against him or his successor which arises from that  
37 conduct and which is brought under this act with the same force as  
38 if served on him personally. Notice shall be given as provided in  
39 subsection b. of this section.

40

41       30. (New section) a. Any broker, broker-salesperson or  
42 salesperson who violates the provisions of this act shall, in addition  
43 to the penalties set forth herein, be subject to the penalties as set  
44 forth in R.S.45:15-17.

45       b. Any person who violates any provision of this act or any  
46 person who, in an application for registration filed with the  
47 commission, makes any untrue statement of a material fact or omits  
48 to state a material fact shall be fined not less than \$250, nor more

1 than \$50,000, per violation.

2 c. The commission may levy and collect the penalties set forth  
3 in subsection b. of this section after affording the person alleged to  
4 be in violation of this act an opportunity for a hearing in accordance  
5 with the "Administrative Procedure Act," P.L.1968, c.410  
6 (C.52:14B-1 et seq.) on the alleged violations and a finding by the  
7 commission that the person is guilty of the violation. When a  
8 penalty levied by the commission has not been satisfied within 30  
9 days of the levy, the penalty may be sued for and recovered by, and  
10 in the name of, the commission in a summary proceeding pursuant  
11 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
12 (C.2A:58-10 et seq.).

13 d. The commission may, in the interest of justice, compromise  
14 any civil penalty, if in its determination the gravity of the offense  
15 does not warrant the assessment of the full fine.

16

17 31. (New section) a. Any person who suffers any ascertainable  
18 loss of moneys as a result of the failure of another to comply fully  
19 with the provisions of this act may bring an action or assert a  
20 counterclaim in any court of competent jurisdiction. In any action  
21 filed under this section in which a defendant is found to have  
22 knowingly engaged in any false, deceptive, misleading promotional  
23 or sales methods or discriminatory advertising on the basis of race,  
24 sex, creed, color, marital status, national origin or religion,  
25 concealed or fraudulently diverted any funds or assets so as to  
26 defeat the rights of timeshare plan purchasers, made an intentional  
27 misrepresentation or concealed a material fact in an application for  
28 registration, or disposed of any timeshare plan required to be  
29 registered under this act, which are not so registered, the court shall,  
30 in addition to any other appropriate legal or equitable remedy,  
31 award double damages suffered, and court costs, including  
32 reasonable attorney's fees. In the case of an untruth, omission, or  
33 misleading statement the developer sustains the burden of proving  
34 that the purchaser knew of the untruth, omission or misleading  
35 statement, or that he did not rely on such information, or that the  
36 developer did not know, and in the exercise of reasonable care  
37 could not have known of the untruth, omission, or misleading  
38 statement.

39 b. The court, in addition to the remedies provided in this act,  
40 may award any other relief appropriate under the circumstances  
41 including, in the court's discretion, restitution of all monies paid  
42 and, where a developer has failed to provide to a purchaser a copy  
43 of the current public offering statement approved by the  
44 commission prior to execution of the contract or agreement,  
45 rescission of the contract. If the purchaser fails to establish a cause  
46 of action, and the court further determines that the action was  
47 wholly without merit, the court shall award attorney's fees to the  
48 developer.

1 c. Any stipulation or provision purporting to bind a purchaser  
2 acquiring an interest in a timeshare plan subject to the provisions of  
3 this act to a waiver of compliance with the provisions of this act  
4 shall be void.

5  
6 32. (New section) a. An action shall not be maintained by any  
7 developer in any court in this State with respect to any agreement,  
8 contract, or services for which registration is required by this act, or  
9 to recover the agreed price or any consideration under any  
10 agreement, or to recover for services for which a registration is  
11 required by this act, without proving that the developer had a valid  
12 order of registration at the time of making the agreement or  
13 performing the work.

14 b. A person licensed in this State as a real estate broker pursuant  
15 to R.S.45:15-1 et seq. shall not represent any unregistered timeshare  
16 plan and shall not accept or collect any commission or other form of  
17 consideration from any developer unless the timeshare plan is  
18 registered pursuant to the requirements of this act.

19  
20 33. (New section) The commission shall adopt rules for the  
21 implementation and enforcement of this act in accordance with the  
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.).

24  
25 34. (New section) The commission may prescribe forms and  
26 procedures for submitting information to the commission.

27  
28 35. (New section) The commission shall thoroughly investigate  
29 all matters relating to an application for registration under this act  
30 and may require a personal inspection of any timeshare plan,  
31 accommodation, and any offices where any of the foregoing may  
32 transact business. All reasonable expenses incurred by the  
33 commission in investigating such matters shall be paid by the  
34 registrant. The commission may require a deposit sufficient to  
35 cover the expenses prior to incurring the expenses.

36  
37 36. (New section) All timeshare plans that were registered and  
38 approved pursuant to the provisions of the "Real Estate Sales Full  
39 Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The  
40 Planned Real Estate Development Full Disclosure Act," P.L.1977,  
41 c.419 (C.45:22A-21 et seq.) in effect on the effective date of this act  
42 shall remain in full force and effect after the effective date of this  
43 act and shall be considered registered under this act and shall not be  
44 required to file any further documentation under this act, except as  
45 to comply with the requirements of section 11.

46 Developers who have filed timeshare plans that were exempt  
47 from the requirements of the "Real Estate Sales Full Disclosure  
48 Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned



1 Real Estate Development Full Disclosure Act," P.L.1977, c.419  
2 (C.45:22A-21 et seq.) shall be required to file a registration  
3 application with the commission within 90 days from the effective  
4 date of this act unless they are otherwise exempt under this act.  
5 These developers and timeshare plans shall be allowed to continue  
6 operating as long as a registration application is filed with the  
7 commission within the timeframe stated above and as long as they,  
8 in good faith, continue to work with the commission to correct any  
9 and all deficiencies in the registration application.

10 Any existing injunction or temporary restraining order validly  
11 obtained under the "Real Estate Sales Full Disclosure Act,"  
12 P.L.1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real  
13 Estate Development Full Disclosure Act," P.L.1977, c.419  
14 (C.45:22A-21 et seq.) which prohibits unregistered practice of  
15 timeshare developers, timeshare plans, and their agents shall not be  
16 invalidated by the enactment of this act and shall continue to have  
17 full force and effect on and after the effective date of this act. Any  
18 existing disciplinary action or investigation pursuant to a violation  
19 under the "Real Estate Sales Full Disclosure Act" P.L.1989, c.239  
20 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development  
21 Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) shall  
22 not be invalidated by the enactment of this act and shall continue to  
23 have full force and effect on and after the effective date of this act.

24  
25 37. Section 2 of P.L.1989, c.239 (C.45:15-16.28) is amended to  
26 read as follows:

27 2. As used in this act:

28 "Advertising" means the publication, or causing to be published,  
29 of any information offering for sale, or for the purpose of causing or  
30 inducing any other person to purchase or acquire, an interest in the  
31 title to subdivided lands, including the land sales contract to be used  
32 and any photographs or drawings or artist's representation of  
33 physical conditions or facilities on the property existing or to exist  
34 by means of any:

- 35 (1) Newspaper or periodical;  
36 (2) Radio or television broadcast;  
37 (3) Written or printed or photographic matter produced by any  
38 duplicating process producing 10 copies or more;  
39 (4) Billboards or signs;  
40 (5) Display of model homes or units;  
41 (6) Material used in connection with the disposition or offer of  
42 subdivided lands by radio, television, telephone or any other  
43 electronic means; or

44 (7) Material used by subdividers or their agents to induce  
45 prospective purchasers to visit the subdivision; particularly vacation  
46 certificates which require the holders of those certificates to attend  
47 or submit to a sales presentation by a subdivider or its agents.

48 "Advertising" does not mean: stockholder communications such

1 as annual reports and interim financial reports, proxy materials,  
2 registration statements, securities prospectuses, applications for  
3 listing securities on stock exchanges, or similar documents;  
4 prospectuses, property reports, offering statements, or other  
5 documents required to be delivered to a prospective purchaser by an  
6 agency of any other state or the federal government; all  
7 communications addressed to and relating to the account of any  
8 person who has previously executed a contract for the purchase of  
9 the subdivider's lands except when directed to the sale of additional  
10 lands.

11 "Blanket encumbrance" means a trust deed, mortgage, judgment,  
12 or any other lien or encumbrance, including an option or contract to  
13 sell or a trust agreement, affecting a subdivision or affecting more  
14 than one lot offered within a subdivision, except that term shall not  
15 include any lien or other encumbrance arising as the result of the  
16 imposition of any tax assessment by any public authority.

17 "Broker" or "salesperson" means any person who performs  
18 within this State as an agent or employee of a subdivider any one or  
19 more of the services or acts as set forth in this act, and includes any  
20 real estate broker or salesperson licensed pursuant to R.S.45:15 1 et  
21 seq. or any person who purports to act in any such capacity.

22 "Commission" means the New Jersey Real Estate Commission.

23 "Common promotional plan" means any offer for the disposition  
24 of lots, parcels, units or interests of real property by a single person  
25 or group of persons acting in concert, where those lots, parcels,  
26 units or interests are contiguous, or are known, designated or  
27 advertised as a common entity or by a common name regardless of  
28 the number of lots, parcels, units or interests covered by each  
29 individual offering.

30 "Disposition" means the sale, lease, assignment, award by  
31 lottery, or any other transaction concerning a subdivision if  
32 undertaken for gain or profit.

33 "Notice" means a communication by mail from the commission  
34 executed by its secretary or other duly authorized officer. Notice to  
35 subdividers shall be deemed complete when mailed to the  
36 subdivider's address currently on file with the commission.

37 "Offer" means every inducement, solicitation or attempt to  
38 encourage a person to acquire an interest in a subdivision if  
39 undertaken for gain or profit.

40 "Person" means an individual, corporation, government or  
41 governmental subdivision or agency, business trust, estate, trust,  
42 partnership, unincorporated association, two or more of any of the  
43 foregoing having a joint or common interest, or any other legal or  
44 commercial entity.

45 "Purchaser" means a person who acquires or attempts to acquire  
46 or succeeds to an interest in a subdivision.

47 ["Time-share estates" includes both "fee simple" and "right to  
48 use" time-share interests and means:

1 (1) An "interval estate" meaning a combination of an estate for  
2 years in a lot, parcel or unit, during the term of which title rotates  
3 among the time-share owners, coupled with a vested undivided fee  
4 simple interest in the remainder in that unit as established by the  
5 declaration or deed creating the interval estate; or

6 (2) A "time-span estate" meaning a combination of an undivided  
7 interest in a present estate in fee simple in a lot, parcel or unit  
8 established by the declaration or deed creating the time-span estate,  
9 coupled with the exclusive right to possession and occupancy of the  
10 parcel or unit during a regularly recurring period; or

11 (3) A "vacation license" meaning the exclusive right to  
12 possession and occupancy of a lot, unit or parcel during a regularly  
13 recurring period established by club membership, lease or license.】

14 "Subdivider" or "developer" means any owner of subdivided  
15 lands or the agent of that owner who offers the subdivided lands for  
16 disposition.

17 "Subdivision" and "subdivided lands" mean any land situated  
18 outside the State of New Jersey whether contiguous or not, if one or  
19 more lots, parcels, units or interests are offered as a part of a  
20 common promotional plan of advertising and sale and expressly  
21 means and includes such units or interests commonly referred to as  
22 a "condominium," defined in the "Condominium Act," P.L.1969,  
23 c.257 (C.46:8B-1 et seq.). In addition to condominiums, this  
24 definition shall also specifically include, but shall not be limited to,  
25 any form of homeowners association, any housing cooperative【,】  
26 and any community trust【,】 or other trust device 【and any form of  
27 time-sharing】.

28 (cf: P.L.1989, c.239, s.2)

29

30 38. Section 6 of P.L.1989, c.239 (C.45:15-16.32) is amended to  
31 read as follows:

32 6. a. Unless the method of disposition is adopted for the purpose  
33 of evasion of this act, the provisions of this act are not applicable to  
34 offers or dispositions of an interest in a subdivision:

35 (1) By an owner for his own account in a single or isolated  
36 transaction;

37 (2) Wholly for industrial or commercial purposes;

38 (3) Pursuant to court order;

39 (4) By any governmental agency;

40 (5) As cemetery lots or interests;

41 (6) Of less than 100 lots, parcels, units or interests; but, this  
42 exemption shall not apply to condominiums, cooperatives, 【time  
43 shares,】 retirement communities and offers or dispositions by  
44 entities comprised of or acting on behalf of the owners of other  
45 units in the subdivision, including, but not limited to entities  
46 designated as homeowners associations, regardless of the number of  
47 lots, parcels, units or interests offered or disposed of;

48 (7) Where the common elements or interests, which would

1 otherwise subject the offering to this act, are limited to the  
2 provision of unimproved, unencumbered open space, except where  
3 registration is required by the "Interstate Land Sales Full Disclosure  
4 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of  
5 Interstate Land Sales Registration, in the Department of Housing  
6 and Urban Development; or

7 (8) In a development comprised wholly of rental units, where  
8 the relationship created is one of landlord and tenant [; but this  
9 exemption shall not apply to time shares, regardless of the manner  
10 in which an interest in such a time share subdivision is evidenced].

11 b. Unless the method of disposition is adopted for the purpose of  
12 evasion of this act, the provisions of this act are not applicable to:

13 (1) Offers or dispositions of evidences of indebtedness secured  
14 by a mortgage or deed of trust of real estate;

15 (2) Offers or dispositions of securities or units of interest issued  
16 by a real estate investment trust regulated under any State or federal  
17 statute;

18 (3) Offers or dispositions of securities currently registered with  
19 the Bureau of Securities in the Department of Law and Public  
20 Safety; or

21 (4) Offers or dispositions of any interest in oil, gas or other  
22 minerals or any royalty interest therein if the offers or dispositions  
23 of such interests are regulated as securities by federal law or by the  
24 State Bureau of Securities.

25 c. The commission may, from time to time, pursuant to any rules  
26 and regulations promulgated pursuant to this act, exempt from any  
27 of the provisions of this act any subdivision or any lots in a  
28 subdivision, if it finds that the enforcement of this act with respect  
29 to that subdivision or the lots therein, is not necessary in the public  
30 interest, or required for the protection of purchasers, by reason of  
31 the small amount involved or the limited character of the offering.

32 (cf: P.L.1989, c.239, s.6)

33  
34 39. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to  
35 read as follows:

36 3. As used in this act unless the context clearly indicates  
37 otherwise: a. "Disposition" means any sales, contract, lease,  
38 assignment, or other transaction concerning a planned real estate  
39 development.

40 b. "Developer" or "subdivider" means any person who disposes  
41 or offers to dispose of any lot, parcel, unit, or interest in a planned  
42 real estate development.

43 c. "Offer" means any inducement, solicitation, advertisement, or  
44 attempt to encourage a person to acquire a unit, parcel, lot, or  
45 interest in a planned real estate development.

46 d. "Purchaser" or "owner" means any person or persons who  
47 acquires a legal or equitable interest in a unit, lot, or parcel in a  
48 planned real estate development, and shall be deemed to include a

1 prospective purchaser or owner.

2 e. "State" means the State of New Jersey.

3 f. "Commissioner" means the Commissioner of Community  
4 Affairs.

5 g. "Person" shall be defined as in R.S.1:1 2.

6 h. "Planned real estate development" or "development" means  
7 any real property situated within the State, whether contiguous or  
8 not, which consists of or will consist of, separately owned areas,  
9 irrespective of form, be it lots, parcels, units, or interest, and which  
10 are offered or disposed of pursuant to a common promotional plan,  
11 and providing for common or shared elements or interests in real  
12 property. This definition shall not apply to any form of timesharing.

13 This definition shall specifically include, but shall not be limited  
14 to, property subject to the "Condominium Act," P.L.1969, c.257  
15 (C.46:8B 1 et seq.), any form of homeowners' association, any  
16 housing cooperative or to any community trust or other trust device.

17 This definition shall be construed liberally to effectuate the  
18 purposes of this act.

19 i. "Common promotional plan" means any offer for the  
20 disposition of lots, parcels, units or interests of real property by a  
21 single person or group of persons acting in concert, where such lots,  
22 parcels, units or interests are contiguous, or are known, designated  
23 or advertised as a common entity or by a common name.

24 j. "Advertising" means and includes the publication or causing  
25 to be published of any information offering for disposition or for  
26 the purpose of causing or inducing any other person to purchase an  
27 interest in a planned real estate development, including the land  
28 sales contract to be used and any photographs or drawings or artist's  
29 representations of physical conditions or facilities on the property  
30 existing or to exist by means of any:

31 (1) Newspaper or periodical;

32 (2) Radio or television broadcast;

33 (3) Written or printed or photographic matter;

34 (4) Billboards or signs;

35 (5) Display of model houses or units;

36 (6) Material used in connection with the disposition or offer of  
37 the development by radio, television, telephone or any other  
38 electronic means; or

39 (7) Material used by developers or their agents to induce  
40 prospective purchasers to visit the development, particularly  
41 vacation certificates which require the holders of such certificates to  
42 attend or submit to a sales presentation by a developer or his agents.

43 "Advertising" does not mean and shall not be deemed to include:  
44 Stockholder communications such as annual reports and interim  
45 financial reports, proxy materials, registration statements, securities  
46 prospectuses, applications for listing securities on stock exchanges,  
47 and the like; all communications addressed to and relating to the  
48 account of any person who has previously executed a contract for

1 the purchase of the subdivider's lands except when directed to the  
2 sale of additional lands.

3 k. "Non-binding reservation agreement" means an agreement  
4 between the developer and a purchaser and which may be canceled  
5 without penalty by either party upon written notice at any time prior  
6 to the formation of a contract for the disposition of any lot, parcel,  
7 unit or interest in a planned real estate development.

8 l. "Blanket encumbrance" means a trust deed, mortgage,  
9 judgment, or any other lien or encumbrance, including an option or  
10 contract to sell or a trust agreement, affecting a development or  
11 affecting more than one lot, unit, parcel, or interest therein, but does  
12 not include any lien or other encumbrance arising as the result of  
13 the imposition of any tax assessment by any public authority.

14 m. "Conversion" means any change with respect to a real estate  
15 development or subdivision, apartment complex or other entity  
16 concerned with the ownership, use or management of real property  
17 which would make such entity a planned real estate development.

18 n. ["Association" means an association for the management of  
19 common elements and facilities, organized pursuant to section 1 of  
20 P.L.1993, c.30 (C.45:22A 43.) (Deleted by amendment P.L. .c. ),  
21 (pending before the Legislature as this bill.)

22 o. ["Executive board" means the executive board of an  
23 association, as provided for in section 3 of P.L.1993, c.30  
24 (C.45:22A 45).] (Deleted by amendment P.L. c. ), (pending  
25 before the Legislature as this bill.)

26 p. ["Unit" means any lot, parcel, unit or interest in a planned real  
27 estate development that is, or is intended to be, a separately owned  
28 area thereof.] (Deleted by amendment P.L. c. ), (pending  
29 before the Legislature as this bill.)  
30 (cf: P.L.1993, c.30, s.7)

31

32 40. Section 5 of P.L.1977, c.419 (C.45:22A-25) is amended to  
33 read as follows:

34 5. a. Unless the method of disposition is adopted for purposes  
35 of evasion, the provision of this act shall not apply to offers or  
36 dispositions:

37 (1) By an owner for his own account in a single or isolated  
38 transaction;

39 (2) Wholly for industrial, commercial, or other nonresidential  
40 purposes;

41 (3) Pursuant to court order;

42 (4) By the United States, by this State or any of its agencies or  
43 political subdivisions;

44 (5) Of real property located without the State;

45 (6) Of cemetery lots or interests;

46 (7) Of less than 100 lots, parcels, units or interests; provided,  
47 however, that with respect to condominiums and cooperatives, this  
48 exemption shall not apply, irrespective of the number of lots,

1 parcels, units, or interests offered or disposed of;

2 (8) Of developments where the common elements or interests,  
3 which would otherwise subject the offering to this act, are limited to  
4 the provision of unimproved, unencumbered open space;

5 (9) In a development composed wholly of rental units, where the  
6 relationship created is one of landlord and tenant ;

7 (10) Of any form of timesharing.

8 b. The agency may from time to time, pursuant to its rules and  
9 regulations, exempt from any of the provisions of this act any  
10 development, or any lots, units, parcels, or interests in a  
11 development, if it finds that the enforcement of this act with  
12 respect to such, is not necessary in the public interest or required for  
13 the protection of purchasers by reason of the small amount of the  
14 purchase price involved, the limited character of the offering, or the  
15 limited nature of the common or shared elements.

16 (cf: P.L.1977, c.419, s.5)

17

18 41. This act shall take effect on the 90th day following  
19 enactment.

20

21

## 22 STATEMENT

23

24 This bill regulates timeshares offerings by creating a  
25 comprehensive system that includes registration of offerings, public  
26 offering requirements and consumer protections. This bill, which  
27 creates the "New Jersey Real Estate Timeshare Act," removes the  
28 regulation of timeshares from the "Planned Real Estate  
29 Development Full Disclosure Act" and the "Real Estate Sales Full  
30 Disclosure Act." Currently, these acts separately regulate  
31 various aspects of timeshare offerings, and place regulatory  
32 authority partly in the Department of Community Affairs, and partly  
33 in the New Jersey Real Estate Commission within the Department  
34 of Banking and Insurance. Neither of these acts provides an  
35 adequate system of regulation to protect consumer interests.

36 Timesharing has grown extensively and timeshare offerings have  
37 become more complex. Recent industry studies indicate that in  
38 2003, three million Americans owned timeshares. That level is  
39 nearly twice the number of timeshares owned just seven years prior.  
40 As the volume of timesharing increases, consistent regulation is  
41 essential to protect the interests of New Jersey consumers.

42 This bill is intended to resolve issues regarding shared authority  
43 between departments by placing all regulatory authority within the  
44 New Jersey Real Estate Commission. This restructuring will  
45 provide a single regulatory framework for multi-site timeshare  
46 offering, which have components located both within and outside  
47 the State.

48 Specifically, the bill provides that timeshare plans must maintain

1 a one-to-one purchaser-to-accommodation ratio. Any person who  
2 offers or sells a timeshare interest, or any developer who creates a  
3 timeshare interest in the State, is required to register its timeshare  
4 plan with the commission, by providing certain information  
5 specified in the bill. The commission may issue an abbreviated  
6 registration, preliminary registration, conditional registration or  
7 preliminary permit under certain conditions.

8 Timeshare developers must also meet certain escrow  
9 requirements, and have responsibility for all sales, managing and  
10 marketing entities involved in the offering or selling of timeshares.

11 Developers must also prepare a public offering statement,  
12 disclosing certain information, the extent of which is dependent on  
13 whether the timeshare plan is a single-site, specific timeshare  
14 interest multi-site, or non-specific timeshare interest multi-site plan.  
15 The statement must be provided to each purchaser of a timeshare at  
16 the time of purchase.

17 The bill also provides for annual reports by developers,  
18 registration filing fees, and timelines by which the commission  
19 must review applications for registrations. The bill delineates duties  
20 of the managing entity and provides consumers a seven-day right of  
21 cancellation for a timeshare contract.

22 Further, the bill regulates the release of escrow funds to the  
23 developer, as the timeshare units are purchased, requires a sales  
24 agent for a developer to be licensed under the State's real estate  
25 licensing act, and prohibits certain unfair sales practices. The bill  
26 provides for the commission to administer and take certain other  
27 actions, for violations of the provisions of the bill.

28 The bill also provides an individual cause of action for any  
29 person who suffers an ascertainable loss of moneys as a result of a  
30 violation. Finally, the bill "grandfathers" all registrations of  
31 timeshare plans in effect under the "Real Estate Sales Full  
32 Disclosure Act" and the "Planned Real Estate Development Full  
33 Disclosure Act."