

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1321

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1321.

This bill, as amended, the “New Jersey Real Estate Timeshare Act,” regulates timeshare offerings by creating a comprehensive system that includes registration of offerings, public offering requirements, and consumer protections.

The bill, as amended, removes the regulation of timeshares from the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and “The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). Currently, these acts separately regulate various aspects of timeshare offerings, and place regulatory authority partly with the Department of Community Affairs, and partly with the New Jersey Real Estate Commission within the Department of Banking and Insurance. Under the provisions of the bill, all regulatory authority is instead assigned solely to the Real Estate Commission, in order to avoid any further issues regarding shared authority between the two departments. This restructuring is intended to provide a single regulatory framework for overseeing timeshare offerings directed or targeted to persons within the State.

Specifically, the bill provides that timeshare plans shall maintain a one-to-one purchaser-to-accommodation ratio. Any person who offers or sells a timeshare interest, or any developer who creates a timeshare interest, in the State, is required to register its timeshare plan with the commission, by providing certain information specified in the bill. The commission may issue an abbreviated registration, preliminary registration, conditional registration or preliminary permit under certain conditions.

Timeshare developers shall also meet certain escrow requirements, and have responsibility for all sales, managing and marketing entities involved in the offering or selling of timeshares. Developers must also prepare a public offering statement, disclosing certain information, the extent of which is dependent on whether the timeshare plan is a single-site, specific timeshare interest multi-site, or non-specific timeshare interest multi-site plan. The statement shall be provided to each

purchaser of a timeshare at the time of purchase.

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

Further, the bill regulates the release of escrow funds to the developer as the timeshare units are purchased, requires a sales agent for a developer to be licensed under the State's real estate licensing act, and prohibits certain unfair sales practices.

The bill provides for the commission to administer and take certain other actions for violations of the provisions of the bill. It also provides an individual cause of action for any person who suffers an ascertainable loss of monies as a result of a violation.

Finally, the bill "grandfathers" all registrations of timeshare plans in effect under the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

The committee amendments to the bill:

- clarify, with respect to determining the term of a timeshare plan, that the period of any automatic renewal shall be included, unless: a purchaser has the right to terminate the purchaser's participation in the timeshare plan at any time and receive a pro rata refund; or the purchaser receives a notice, not less than 30 days, but not more than 60 days, prior to the date of renewal, informing the purchaser of the right to terminate at any time prior to the date of automatic renewal. This clarification assists in determining whether a particular timeshare shall be regulated under the bill's provisions, as a timeshare with a period of use which extends over any period of three years or less is not subject to regulation under the bill.