

CHAPTER 63

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

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

C.45:15-16.50 Short title.

1. Sections 1 through 36 of this act shall be known and may be cited as the "New Jersey Real Estate Timeshare Act."

C.45:15-16.51 Definitions relative to timeshares.

2. As used in sections 1 through 36 of this act:

"Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals which is a part of the timeshare property.

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

"Advertisement" does not mean:

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

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

(3) Any communication addressed to and relating to the account of any person who has previously executed a contract for the sale or purchase of a timeshare period in a timeshare plan to which the communication relates shall not be considered advertising under this act, provided they are delivered to any person who has previously executed a contract for the purchase of a timeshare interest or is an existing owner of a timeshare interest in a timeshare plan.

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

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

"Commission" means the New Jersey Real Estate Commission.

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

"Component site" means a specific geographic location where accommodations which are

part of a multi-site timeshare plan are located. Separate phases of a single timeshare property in a specific geographic location and under common management shall be deemed a single component site.

"Department" means the Department of Banking and Insurance.

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

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

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

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

- (1) use or participation in the incidental benefit is completely voluntary;
- (2) no costs of the incidental benefit are included as common expenses of the timeshare plan;
- (3) the good faith represented aggregate value of all incidental benefits offered by a developer to a purchaser may not exceed 20 percent of the actual price paid by the purchaser for his or her timeshare interest; and
- (4) the purchaser is provided a disclosure that fairly describes the material terms of the incidental benefit. The term shall not include an offer of the use of the accommodations of the timeshare plan on a free or discounted one-time basis.

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

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

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

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

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

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

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

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

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

"Timeshare interest" means and includes either:

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

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

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

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

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

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

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

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

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

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

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

C.45:15-16.52 Applicability of act.

3. This act shall apply to the following:

- a. Timeshare plans with an accommodation or component site in the State; and
- b. Timeshare plans without an accommodation or component site in this State if those timeshare plans are offered to be sold within this State, regardless of whether the offer originates from within or outside of this State.

C.45:15-16.53 Inapplicability of act.

4. a. This act shall not apply to any of the following:

(1) Timeshare plans, whether or not an accommodation or component site is located in the State, consisting of 10 or fewer timeshare interests;

(2) Timeshare plans, whether or not an accommodation or component site is located in this State, the use of which extends over any period of three years or less. For purposes of determining the term of a timeshare plan, 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;

(3) Timeshare plans, whether or not an accommodation or component site is located in the State, under which the prospective purchaser's total financial obligation will be equal to or less than \$3,000 during the entire term of the timeshare plan;

(4) Component sites of specific timeshare interest multi-site timeshare plans that are neither located in nor offered for sale in this State, except that these component sites are still subject to the disclosure requirements of section 10 of this act;

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

(6) Offers or dispositions of securities currently registered with the Bureau of Securities within the Division of Consumer Affairs in the Department of Law and Public Safety.

b. A person shall not be required to register as a developer under this act if:

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

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

c. If a developer has already registered a timeshare plan under this act, the developer may offer or dispose of an interest in a timeshare plan that is not registered under this act if the developer is offering a timeshare interest in the additional timeshare plan to a current timeshare interest owner of a timeshare interest in a timeshare plan created or operated by that same developer subject to the rules and regulations adopted by the commission.

d. The commission may, from time to time, pursuant to any rules and regulations adopted pursuant to this act, exempt from any of the provisions of this act any timeshare plan, if it finds that the enforcement of this act with respect to that plan is not necessary in the public interest, or required for the protection of purchasers, by reason of the small amount of the purchase price or the limited character of the offering.

C.45:15-16.54 Administration by Real Estate Commission.

5. This act shall be administered by the New Jersey Real Estate Commission in the Department of Banking and Insurance.

C.45:15-16.55 Nonpreemption of local codes; supersedure of other regulation of timeshares.

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

C.45:15-16.56 Creation of timeshare plan.

7. A timeshare plan may be created in any accommodation unless otherwise prohibited. A timeshare plan shall maintain a one-to-one purchaser-to-accommodation ratio, which means the ratio of the number of purchasers eligible to use the accommodations of a timeshare plan on a given day to the number of accommodations available for use within the plan on that day, such that the total number of purchasers eligible to use the accommodations of the timeshare plan during a given consecutive 12-month period never exceeds the total number of accommodations available for use in the timeshare plan during that consecutive 12-month period. For purposes of the calculation under this section, each purchaser shall be counted at least once, and an individual accommodation shall not be counted more than one time per day per year. An owner of a timeshare interest who is delinquent in the payment of a timeshare plan assessment shall continue to be considered eligible to use the accommodations of the timeshare plan for purposes of calculating the one-to-one purchaser-to-accommodation ratio.

C.45:15-16.57 Requirements for developers of timeshares; application, registration.

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

b. Upon the submission of an application approved by the commission, the commission may grant a 90-day preliminary registration to allow the developer to begin offering and selling timeshare interests in a timeshare plan regardless of whether the accommodations of the timeshare plan are located within or outside of the State. Upon submission of a substantially complete application for an abbreviated or comprehensive registration under this act, including all appropriate fees, to the commission prior to the expiration date of the preliminary registration, the preliminary registration will be automatically extended during the registration review period provided that the developer is actively and diligently pursuing registration under this act. The preliminary registration shall automatically terminate with respect to those timeshare interests covered by a final public offering statement that is issued before the scheduled termination date of the preliminary registration. The preliminary registration shall also terminate upon the issuance of any notice of rejection due to the developer's failure to comply with the provisions of this act.

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

(1) Submit the reservation instrument to be used in a form previously approved by the

department with at least the following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

who are the authorized representatives of the developer;

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

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

(7) Evidence of registration or compliance with the laws and regulations of the jurisdiction in which the timeshare plan is located, approved or accepted;

(8) A declaration as to whether the timeshare plan is a single-site timeshare plan or a multi-site timeshare plan and, if a multi-site timeshare plan, whether it consists of specific timeshare interests or non-specific timeshare interests;

(9) Disclosure of each jurisdiction in which the developer has applied for registration of the timeshare plan, and whether the timeshare plan or its developer were denied registration or were the subject of any disciplinary proceeding;

(10) Copies of any disclosure documents required to be given to purchasers or required to be filed with the jurisdiction in which the timeshare plan is located, approved or accepted as may be requested by the commission;

(11) The appropriate fee; and

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

A developer of a timeshare plan with any accommodation located in this State may not file an abbreviated filing with regard to such timeshare plan, with the exception of a succeeding developer after a merger or acquisition when the developer's timeshare plan was registered in this State prior to the merger or acquisition.

C.45:15-16.58 Responsibilities of timeshare developer for offering, marketing violations.

9. The developer shall have responsibility for each timeshare plan registered with the commission and for the actions of any sales agent, managing entity or marketing entity utilized by the developer in the offering or promotional selling of any registered timeshare plan. Any violation of this act which occurs during the offering activities shall be a violation by the developer as well as by the sales agent, marketing entity or managing entity who actually committed the violation. Notwithstanding anything to the contrary in this act, the developer shall be responsible for the actions of the association and managing entity only while they are subject to the developer's control.

C.45:15-16.59 Public offering, disclosure statements; requirements.

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

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

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

- (1) The name and address of the developer;
- (2) A description of the duration and operation of the timeshare plan;
- (3) A description of the existing or proposed accommodations, including the type and number of timeshare interests in the accommodations expressed in periods of seven-day use availability or other time increments applicable to the timeshare plan. The description of each type of accommodation included in the timeshare plan shall be categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and shall include a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven, and refrigerator. If the accommodations are proposed or incomplete, a schedule for commencement, completion, and availability of the accommodations shall be provided;
- (4) A description of any existing or proposed amenities of the timeshare plan and, if the amenities are proposed or incomplete, a schedule for commencement, completion, and availability of the amenities;
- (5) The extent to which financial arrangements have been provided for the completion of all promised accommodations and amenities that are committed to be built;
- (6) A description of the method and timing for performing maintenance of the accommodations;
- (7) A statement indicating that, on an annual basis, the sum of the nights that purchasers are entitled to use the accommodations does not exceed the number of nights the accommodations are available for use by the purchasers;
- (8) A description of the method by which purchasers' use of the accommodations is scheduled;
- (9) A statement that an association exists or is expected to be created or that such an association does not exist and is not expected to be created and, if such an association exists or is reasonably contemplated, a description of its powers and responsibilities;
- (10) A statement that within seven days after receipt of the public offering statement or after execution of the purchase contract, whichever is later, a purchaser may cancel any purchase contract for a timeshare interest from a developer together with a statement providing the name and street address to which the purchaser should mail any notice of cancellation. However, if by agreement of the parties by and through the purchase contract, the purchase contract allows for cancellation of the purchase contract for a period of time exceeding seven days, then the public offering statement shall include a statement that the cancellation of the purchase contract is allowed for that period of time exceeding seven days;
- (11) Copies of the following documents, if applicable, including any amendments to the documents, unless separately provided to the purchaser simultaneously with the public offering statement:
 - (a) the timeshare instrument;
 - (b) the association articles of incorporation;
 - (c) the association bylaws;
 - (d) the association rules; and
 - (e) any lease or contract, excluding the purchase contract and other loan documents required to be signed by the purchaser at closing;
- (12) The name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;
- (13) The current annual budget, if available, or the projected annual budget for the timeshare plan. The budget shall include:

- (a) a statement of the amount reserved or budgeted for repairs or replacements, if any;
 - (b) the projected common expense liability, if any, by category of expenditure for the timeshare plan; and
 - (c) a statement of any services or expenses not reflected in the budget that the developer provides or pays;
- (14) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers;
 - (15) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;
 - (16) A description of any lien, defect, or encumbrance on or affecting title to the timeshare interest and, if applicable, a copy of each written warranty provided by the developer;
 - (17) A description of any bankruptcy that is pending or which has occurred within the past five years, pending civil or criminal proceeding, adjudication, or disciplinary action material to the timeshare plan of which the developer has knowledge;
 - (18) A description of any financing offered by or available through the developer;
 - (19) Any current or anticipated fees or charges to be paid by timeshare purchasers for the use of any accommodations or amenities related to the timeshare plan, and a statement that the fees or charges are subject to change;
 - (20) A description and amount of insurance coverage provided for the protection of the purchaser;
 - (21) The extent to which a timeshare interest may become subject to a tax lien or other lien arising out of claims against purchasers of different timeshare interests;
 - (22) A description of those matters required by section 18 of this act;
 - (23) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a timeshare interest;
 - (24) A statement disclosing that any deposit made in connection with the purchase of a timeshare interest shall be held by an escrow agent until expiration of any right to cancel the contract and that any deposit shall be returned to the purchaser if the purchaser elects to exercise the right of cancellation; or, if the commission accepts from the developer a surety bond, irrevocable letter of credit, or other form of financial assurance instead of an escrow deposit, a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other form of financial assurance in an amount equal to or in excess of the funds that would otherwise be held by an escrow agent and that the deposit shall be returned if the purchaser elects to exercise the right of cancellation;
 - (25) A description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program, if the timeshare plan provides purchasers with the opportunity to participate in an exchange program; and
 - (26) Any other information the commission determines is necessary to protect prospective purchasers or to implement the purpose of this act.

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

c. The disclosure statement for a specific timeshare interest multi-site timeshare plan shall include:

- (1) With regard to the timeshare property in which the purchaser will receive a specific timeshare interest that includes a reservation priority right, all of the applicable information related to that timeshare property as required under subsection b. of this section;
- (2) With regard to the component site in which the purchaser does not receive a specific

timeshare interest, the following information:

(a) a description of each component site, including the name and address of each component site;

(b) a description of each type of accommodation in each component site, categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven, and refrigerator;

(c) a description of the amenities at each component site available for use by the purchaser;

(d) a description of the reservation system, which shall include:

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

(ii) a summary of the rules governing access to and use of the reservation system; and

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

(e) The name and principal address of the managing entity for the multi-site timeshare plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

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

(g) A description of the purchaser's liability for any fees associated with the multi-site timeshare plan;

(h) The location of each component site of the multi-site timeshare plan, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multi-site timeshare plan; and

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

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

(1) The name and address of the developer;

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

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

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

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

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

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

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

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

- (a) the timeshare instrument;
- (b) the association articles of incorporation;
- (c) the association bylaws; and
- (d) the association rules;

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

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

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

(13) The location of each component site of the multi-site timeshare plan, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multi-site timeshare plan;

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

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

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

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

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

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

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

(18) The current annual budget of the multi-site timeshare plan, if available, or the

projected annual budget for the multi-site timeshare plan, which shall include:

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

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

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

(19) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers of the multi-site timeshare plan;

(20) Any current fees or charges to be paid by purchasers for the use of any amenities related to the timeshare plan and a statement that the fees or charges are subject to change;

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

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

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

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

(25) A description of those matters required by section 18 of this act;

(26) A description of any financing offered by or available through the developer;

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

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

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

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

(31) Any other information the commission determines is necessary to protect prospective purchasers or to implement the purpose of this act. The developer may also include any other information in the timeshare disclosure statement following approval by the commission.

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

C.45:15-16.60 Filing of annual reports by developer of timeshare.

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

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

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

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

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

C.45:15-16.61 Issuance of notice of filing of registration.

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

C.45:15-16.62 Review of registration; orders, schedule.

13. Every registration required to be filed with the commission under this act shall be reviewed by the commission and the commission shall issue an order of registration in accordance with the following schedule:

a. As to comprehensive registrations, registrations shall be effective upon the issuance of an order of registration by the commission within 60 days after receipt and issuance of a

notice of filing. The commission shall provide a list of deficiencies in the application, if any, within 60 days of the issuance of the notice of filing. If a list of deficiencies is not provided to the applicant within 60 days of issuance of the notice of filing, the timeshare plan shall be deemed registered unless the applicant has consented in writing to a delay.

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

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

C.45:15-16.63 Deficiency notice, appeal.

14. a. If the commission determines upon inquiry and examination that any of the requirements of this act have not been met, the commission shall notify the applicant that the application for registration shall be corrected as specified in writing within 30 days from the date the notice is received by the applicant. These findings shall be the result of the commission's preliminary inquiry and examination and no hearing shall be required as the basis for those findings.

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

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

C.45:15-16.64 Fee for initial registration.

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

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

C.45:15-16.65 Registrations required for sale.

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

C.45:15-16.66 Creation of provision for managing entity, duties.

17. a. Before the first sale of a timeshare interest, the developer shall create or provide for a managing entity, which shall be either the developer, a separate manager or management firm, the board of directors of an owners' association, or some combination thereof.

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

- (1) Management and maintenance of all accommodations constituting the timeshare plan;
- (2) Collection of all assessments as provided in the timeshare instrument;
- (3) Providing to all purchasers each year an itemized annual budget, which shall include all estimated revenues and expenses;
- (4) Maintenance of all books and records concerning the timeshare plan;
- (5) Scheduling occupancy of accommodations, when purchasers are not entitled to use specific timeshare periods, so that all purchasers will be provided the opportunity to possess and use the accommodations of the timeshare plan which they have purchased; and
- (6) Performing any other functions and duties that are necessary and proper to maintain the accommodations or that are required by the timeshare instrument.

c. In the event a developer, managing entity or association files a complaint in a foreclosure proceeding involving timeshare interests, the developer, managing entity or association may join in the same action multiple defendant obligors and junior interest holders of separate timeshare interests, provided:

- (1) The foreclosure proceeding involves a single timeshare plan;
- (2) The foreclosure proceeding is filed by a single plaintiff;
- (3) The default and remedy provisions in the written instruments on which the foreclosure proceeding is based are substantially the same for each defendant; and
- (4) The nature of the defaults alleged is the same for each defendant.

d. In any foreclosure proceeding involving multiple defendants filed under subsection c. of this section, the court shall, if appropriate, sever for separate trial any count of the complaint in which a defense or counterclaim is timely raised by a defendant.

C.45:15-16.67 Voidability of purchase contract.

18. Any purchase contract entered into by a purchaser of a timeshare interest under this act shall be voidable by the purchaser, without penalty, within seven calendar days after the receipt of the public offering statement or the execution of the purchase contract, whichever date is later. The purchase contract shall provide notice of the seven-day cancellation period, together with the name and mailing address to which any notice of cancellation shall be delivered. Notice of cancellation shall be timely if the notice is deposited with the United States Postal Service not later than midnight of the seventh day. Upon such cancellation, the developer shall refund to the purchaser all payments made by the purchaser, less the amount of any benefits actually received pursuant to the purchase contract. The refund shall be made within 30 days after the receipt of the notice of cancellation, or receipt of funds from the purchaser's cleared check, whichever occurs later. If a purchaser elects to cancel a purchase contract pursuant to this section, the purchaser may do so by hand delivering a written notice of cancellation or by mailing a notice of cancellation by certified mail, return receipt requested, to the developer, as applicable, at an address set forth in the purchase contract.

C.45:15-16.68 Conditions for release of escrow funds to the developer.

19. Excluding any encumbrance placed against the purchaser's timeshare interest securing the purchaser's payment of purchase money financing for the purchase, the developer shall not be entitled to the release of any funds escrowed with respect to each timeshare interest and any other property or rights to property appurtenant to the timeshare interest, including any amenities represented to the purchaser as being part of the timeshare plan, until the developer has provided satisfactory evidence to the commission of one of the following:

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

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

c. The developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the timeshare plan, has transferred the subject accommodations or amenities or all use rights therein to a nonprofit organization or owners' association to be held for the use and benefit of the purchasers of the timeshare plan, which entity shall act as a fiduciary to the purchasers, provided that the developer has transferred control of that entity to the purchasers or does not exercise its voting rights in that entity with respect to the subject accommodations or amenities. Prior to the transfer, any lien or other encumbrance against the accommodation or facility shall be made subject to a subordination and notice to creditors instrument pursuant to subsection b. of this section; or

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

C.45:15-16.69 Compliance by sales agents; non-monetary compensation.

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

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

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

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

C.45:15-16.70 Prohibitions relative to developers of timeshares.

21. a. A developer or other person offering a timeshare plan shall not:

- (1) Misrepresent a fact material to a purchaser's decision to buy a timeshare interest;
- (2) Predict any increase in the value of a timeshare interest represented over a period of time, excluding bona fide pending price increases by the developer;
- (3) Materially misrepresent the qualities or characteristics of accommodations or the amenities available to the occupant of those accommodations;
- (4) Misrepresent the length of time accommodations or amenities will be available to the purchaser of a timeshare interest; or
- (5) Misrepresent the conditions under which a purchaser of a timeshare interest may exchange the right of the purchaser's occupancy for the right to occupy other accommodations.

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

- (1) That the purpose of the promotion is to sell timeshare interests, which shall appear in bold face or other conspicuous type on all promotional materials;
- (2) That any person whose name or address is obtained during the promotion may be solicited to purchase a timeshare interest;
- (3) The name of each developer or other person trying to sell a timeshare interest through the promotion, and the name of each person paying for the promotion if different from the developer;
- (4) The complete details of participation in the promotion;
- (5) The method of awarding premiums or other benefits under the promotion;
- (6) A complete and fully detailed description, including approximate retail value of each premium or benefit under the promotion if the retail value of the premium or benefit is over \$50;
- (7) The quantity of each premium to be awarded or conferred;
- (8) The date by which each premium or benefit will be awarded or conferred; and
- (9) Any other disclosures required by the commission pursuant to regulation.

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

d. If a person represents that a premium or benefit will be awarded in connection with a

promotion, the premium or benefit shall be awarded or conferred in the manner represented, and on or before the date represented for awarding or conferring the premium or benefit.

C.45:15-16.71 Detailed financial records.

22. The managing entity shall keep detailed financial records directly related to the operation of the timeshare plan. All financial and other records shall be made reasonably available for examination by any purchaser, or the authorized agent of the purchaser, and the commission. The managing entity may charge the purchaser a reasonable fee for copying any requested information.

C.45:15-16.72 Maintenance of employee records.

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

C.45:15-16.73 Permitted action for partition.

24. No action for partition of a timeshare interest may be initiated except as permitted by the timeshare instrument.

C.45:15-16.74 Refusal to issue, renew; revocation, suspension of registration; penalties.

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

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

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

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

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

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

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

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

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

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

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

until the requirements of any tax are satisfied.

- h. A registrant's engaging in any conduct likely to deceive, defraud or harm the public.
- i. A registrant's aiding or abetting another person in violating any provision of this act or of the regulations adopted by the commission to enforce this act.
- j. Any representation in any document or information filed with the commission that is materially false or misleading.
- k. A registrant's disseminating or causing to be disseminated any materially false or misleading promotional materials or advertisements in connection with a timeshare plan.
- l. A registrant's concealing, diverting, or disposing of any funds or assets of any person in a manner that impairs the rights of purchasers of timeshare interests in the timeshare plan.
- m. A registrant's failure to perform any stipulation or agreement made to induce the commission to issue an order relating to the timeshare plan.
- n. A registrant's, or its agents or brokers engaging in any act that constitutes a violation of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).
- o. A registrant's, or its agent's or broker's failure to provide information requested in writing by the commission, either as the result of a complaint to the commission or as a result of a random audit conducted by the commission, which would indicate a violation of this act.
- p. A registrant's, or its agent's or broker's, failure to account for or remit any escrow funds coming into his possession which belonged to others.
- q. A registrant's, or its agent's or broker's, failure to make available to commission personnel during normal business hours all escrow records and related documents maintained in connection therewith, within a reasonable period of time after a request from the commission personnel, but in no event later than five business days from the request.

C.45:15-16.75 Powers of commission.

26. The commission may:
- a. Accept registrations filed in this State, in other states, or with the federal government;
 - b. Contract with similar agencies in this State or other jurisdictions to perform investigative functions;
 - c. Accept grants-in-aid from any governmental or other source;
 - d. Cooperate with similar agencies or commissions in this State or other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;
 - e. Grant exemptions pursuant to the rules and regulations adopted pursuant to this act;
 - f. Make any necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate any provision of this act, or to aid in the enforcement of this act or in the prescribing of rules and regulations and forms hereunder;
 - g. Require or permit any person to file a statement in writing, under oath or otherwise, as the commission determines, as to all the facts and circumstances concerning any matter to be investigated;
 - h. For the purpose of any investigation or proceeding under this act, the commission or any officer designated by regulation, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having

knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence; and

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

C.45:15-16.76 Determinations by commission; cease and desist order.

27. a. If the commission determines after notice and hearing that a person has:

(1) Violated any provision of this act;

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

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

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

or

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

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

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

C.45:15-16.77 Violations.

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

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

C.45:15-16.78 Application for registration deemed submission to jurisdiction of courts.

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

b. In addition to the methods of service provided for in the Rules of Court, service may be made by delivering a copy of the process to a person designated by the commission to receive the process at its office, but that service shall not be effective unless the plaintiff,

which may be the commission, in a proceeding instituted by it:

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

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

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

C.45:15-16.79 Additional penalties.

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

b. Any person who violates any provision of this act or any person who, in an application for registration filed with the commission, makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$250, nor more than \$50,000, per violation.

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

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

C.45:15-16.80 Actions, counterclaims, remedies.

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

b. The court, in addition to the remedies provided in this act, may award any other relief

appropriate under the circumstances including, in the court's discretion, restitution of all monies paid and, where a developer has failed to provide to a purchaser a copy of the current public offering statement approved by the commission prior to execution of the contract or agreement, rescission of the contract. If the purchaser fails to establish a cause of action, and the court further determines that the action was wholly without merit, the court shall award attorney's fees to the developer.

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

C.45:15-16.81 Valid registration required for action.

32. a. An action shall not be maintained by any developer in any court in this State with respect to any agreement, contract, or services for which registration is required by this act, or to recover the agreed price or any consideration under any agreement, or to recover for services for which a registration is required by this act, without proving that the developer had a valid order of registration at the time of making the agreement or performing the work.

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

C.45:15-16.82 Rules.

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

C.45:15-16.83 Forms, procedures.

34. The commission may prescribe forms and procedures for submitting information to the commission.

C.45:15-16.84 Investigation of matters relative to application for registration.

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

C.45:15-16.85 Existing timeshare plans remain in full force and effect.

36. All timeshare plans that were registered and approved pursuant to the provisions of 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.) in effect on the effective date of this act shall remain in full force and effect after the effective date of this act and shall be considered registered under this act and shall not be required to file any further documentation under this act, except as to comply with the requirements of section 11.

Developers who have filed timeshare plans that were exempt from the requirements of 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.) shall be required to file a registration application with the commission within 90 days from the effective date of this act unless they are otherwise exempt under this act. These developers and timeshare plans shall be allowed to continue operating as long as a registration application is filed with the commission within the timeframe stated above and as long as they, in good faith, continue to work with the commission to correct any and all deficiencies in the registration application.

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

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

C.45:15-16.28 Definitions.

2. As used in this act:

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

- (1) Newspaper or periodical;
- (2) Radio or television broadcast;
- (3) Written or printed or photographic matter produced by any duplicating process producing 10 copies or more;
- (4) Billboards or signs;
- (5) Display of model homes or units;
- (6) Material used in connection with the disposition or offer of subdivided lands by radio, television, telephone or any other electronic means; or
- (7) Material used by subdividers or their agents to induce prospective purchasers to visit the subdivision; particularly vacation certificates which require the holders of those certificates to attend or submit to a sales presentation by a subdivider or its agents.

"Advertising" does not mean: stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, or similar documents; prospectuses, property reports, offering statements, or other documents required to be delivered to a prospective purchaser by an agency of any other state or the federal government; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider's lands except when directed to the sale of additional lands.

"Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or

encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

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

"Commission" means the New Jersey Real Estate Commission.

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

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

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

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

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

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

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

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

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

C.45:15-16.32 Methods of disposition not applicable to this act.

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

- (1) By an owner for his own account in a single or isolated transaction;
- (2) Wholly for industrial or commercial purposes;
- (3) Pursuant to court order;
- (4) By any governmental agency;
- (5) As cemetery lots or interests;

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

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

(8) In a development comprised wholly of rental units, where the relationship created is one of landlord and tenant.

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

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

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

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

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

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

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

C.45:22A-23 Definitions.

3. As used in this act unless the context clearly indicates otherwise:

a. "Disposition" means any sales, contract, lease, assignment, or other transaction concerning a planned real estate development.

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

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

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

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

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

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

h. "Planned real estate development" or "development" means any real property situated within the State, whether contiguous or not, which consists of or will consist of, separately

owned areas, irrespective of form, be it lots, parcels, units, or interest, and which are offered or disposed of pursuant to a common promotional plan, and providing for common or shared elements or interests in real property. This definition shall not apply to any form of timesharing.

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

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

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

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

- (1) Newspaper or periodical;
- (2) Radio or television broadcast;
- (3) Written or printed or photographic matter;
- (4) Billboards or signs;
- (5) Display of model houses or units;

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

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

"Advertising" does not mean and shall not be deemed to include: Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, and the like; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider's lands except when directed to the sale of additional lands.

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

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

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

n. "Association" means an association for the management of common elements and facilities, organized pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43).

o. "Executive board" means the executive board of an association, as provided for in section 3 of P.L.1993, c.30 (C.45:22A- 45).

p. "Unit" means any lot, parcel, unit or interest in a planned real estate development that is, or is intended to be, a separately owned area thereof.

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

C.45:22A-25 Exemptions.

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

- (1) By an owner for his own account in a single or isolated transaction;
- (2) Wholly for industrial, commercial, or other nonresidential purposes;
- (3) Pursuant to court order;
- (4) By the United States, by this State or any of its agencies or political subdivisions;
- (5) Of real property located without the State;
- (6) Of cemetery lots or interests;
- (7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums and cooperatives, this exemption shall not apply, irrespective of the number of lots, parcels, units, or interests offered or disposed of;
- (8) Of developments where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space;
- (9) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant ;
- (10) Of any form of timesharing.

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

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

Approved August 2, 2006.