

§592. Requirements of time shares

1. Specific disclosures. No time share may be conveyed by a developer or conveyed for the first time unless, prior to that conveyance or the execution of an agreement for the purchase, whichever is earlier, the purchaser is provided, at no cost to the purchaser, with a written statement containing the following information, all of which shall be current to a point not more than 60 days prior to the date of delivery to the purchaser.

A. The front cover or first page must contain only:

(1) The name and principal address of the developer and of the project and the location of the time-share property; and

(2) The following statements in conspicuous type.

(a) THIS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A TIME SHARE. STATE OF MAINE LAW REQUIRES THAT THESE DISCLOSURES BE MADE BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET.

(b) YOU MAY CANCEL THE PURCHASE TRANSACTION WITHIN TEN CALENDAR DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF A CURRENT WRITTEN STATEMENT, WHICHEVER IS LATER.

(c) THE STATEMENTS CONTAINED INSIDE ARE ONLY SUMMARY IN NATURE. IF YOU ARE THINKING OF BUYING A UNIT, YOU SHOULD TALK TO YOUR ATTORNEY AND LOOK AT ALL EXHIBITS, INCLUDING THE DECLARATION, PROJECT INSTRUMENT FLOOR PLAN, PLOT PLAN, BYLAWS AND CONTRACTS.

(d) YOU SHOULD ASK YOUR ATTORNEY AND THE DEVELOPER TO TELL YOU WHAT WILL HAPPEN TO YOUR DEPOSIT, INTEREST IN THE UNIT, OR COSTS AND EXPENSES IF THE DEVELOPER OR OWNER IS DECLARED BANKRUPT. OBTAIN THE ANSWER FROM THE DEVELOPER IN WRITING. [PL 1997, c. 83, §1 (AMD).]

B. The following pages shall contain, in the following order:

(1) A general description of the time-share property and the time-share units, including, without limitation, the number and types of units in the time-share property and in any project of which it is a part and the schedule of commencement and completion of construction of all buildings, units, amenities and improvements;

(2) The maximum number of units that may become part of the time-share property, a statement of the maximum number of time shares that may be created or that there is no maximum, and the proportion of units the developer intends to rent or market in blocks of units to investors;

(3) Copies and a brief narrative description of the significant features of the project instrument and time-share instrument and any documents referred to therein, other than the survey and floor plans; the bylaws; rules; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases, the term of which will or may extend beyond the period of developer control of the association;

(4) Any current balance sheet and a projected budget for the association, if there is an association, for one year after the date of the first transfer to a purchaser, and thereafter the current budget, a statement of who prepared the budget and a statement of the budgetary

assumptions concerning occupancy and inflation factors. The budget shall include, without limitation:

- (a) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;
 - (b) A statement of any other reserves;
 - (c) The projected common expense assessment by category of expenditures for the association; and
 - (d) The projected monthly common expense assessment for each type of unit;
- (5) Any services not reflected in the budget that the developer provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit and each time-share estate;
 - (6) Any initial or special fee due from the purchaser at or before closing, together with a description of the purpose of the fee and method of its calculation;
 - (7) A description and a statement of the effect on the time-share owners of any liens, defects or encumbrances on or affecting the title to the project and each time-share unit;
 - (8) A description of any financing offered by the developer;
 - (9) The terms and significant limitations of any warranties provided by the developer, including statutory warranties and limitations on the enforcement thereof or on damages;
 - (10) A statement that:
 - (a) Within 10 calendar days after receipt of the current written statement or execution of a contract, whichever is later, a purchaser may cancel any conveyance or contract for purchase of a unit from the developer; and
 - (b) If the purchaser elects to cancel, the purchaser may do so by hand delivering a notice of cancellation or by mailing the notice by prepaid United States mail to the developer. The cancellation must be without penalty and any deposit made by the purchaser must be promptly refunded in its entirety;
 - (11) A statement of any unsatisfied judgments against the association, developer or managing entity, the status of any pending suits to which the association, developer or managing entity is a party and the status of any pending suits material to the property of which the developer has actual knowledge;
 - (12) A statement that any deposit made in connection with the purchase of a unit will be returned to the purchaser if the purchaser cancels the contract within 10 calendar days after receipt of the written statement or contract;
 - (13) Any restraints on transfer of time shares or portions thereof;
 - (14) A description of the insurance coverage provided for the benefit of the time-share owners;
 - (15) Any current or expected fees or charges to be paid by time-share owners for the use of the common elements and other facilities related to the project;
 - (16) All unusual and material circumstances, features and characteristics of the project and the units;
 - (17) The projected common expense assessment for each time share and whether those assessments may vary seasonally;

(18) The extent to which the time-share owners of a unit are jointly and severally liable for the payment of real estate taxes and all assessments and other charges levied against that unit; and

(19) The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other time-share owners of the same time-share unit. [PL 1997, c. 83, §2 (AMD).]

[PL 1997, c. 83, §§1, 2 (AMD).]

2. Restraint upon partition of time-share units. No action for partition of any unit in which time shares are created may lie.

[PL 1983, c. 248, §3 (NEW).]

3. Cancellation of contract. Any purchaser or prospective purchaser of a time share may cancel a contract or conveyance of a time share by delivering or mailing a postage prepaid written notice of the purchaser's intention to cancel within 10 calendar days after the date of any contract or conveyance or within 10 calendar days after delivery of the current written statement required by subsection 1, whichever is later.

[PL 1997, c. 83, §3 (AMD).]

4. Time share located outside State. This section shall apply to offers or sales within this State of time shares in property, even if the project is located outside of this State.

[PL 1983, c. 248, §3 (NEW).]

5. Application with respect to foreclosures of mortgages. This section shall not apply to offers or sales by financial institutions as defined in Title 9-B of time shares in property with respect to foreclosure of any mortgage or the delivery of any deed in lieu of that foreclosure.

[PL 1983, c. 248, §3 (NEW).]

6. Violation. Any violation of this section shall be a violation of Title 5, chapter 10.

[PL 1983, c. 248, §3 (NEW).]

7. Completion of construction; escrow requirement. Notwithstanding chapter 31, a developer of a time-share project may convey a time-share to a purchaser prior to the time-share unit containing the time-share being substantially completed, as long as the developer deposits all funds or other consideration received from or on behalf of the purchaser into an escrow account subject to an escrow agreement with an independent escrow agent.

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal building official for the time-share unit containing the time-share. [PL 2009, c. 261, Pt. B, §15 (AMD).]

B. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company authorized and licensed to do business in this State in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account pursuant to this section. [PL 1999, c. 478, §1 (NEW).]

C. As used in this subsection, "independent escrow agent" means a financial institution whose accounts are insured by a governmental agency or instrumentality; an attorney; or a licensed title insurance company, in which:

- (1) The escrow agent is not a relative or an employee of the developer or managing entity or of any officer, director, affiliate or subsidiary of the developer or managing entity;
- (2) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this section, between the escrow agent and the developer or managing entity or any officer, director, affiliate or subsidiary of the developer or managing entity; and
- (3) Compensation paid by the developer to the escrow agent for services rendered is not paid from funds in the escrow account. [PL 1999, c. 478, §1 (NEW).]

D. For purposes of paragraph C, an independent escrow agent may not be disqualified to serve as escrow agent solely because:

- (1) The escrow agent provides the developer or managing entity with routine banking services that do not include construction or receivables financing or any other lending activities;
- (2) A nonemployee, attorney-client relationship exists between the developer or managing entity and the escrow agent; or
- (3) The escrow agent performs closings for the developer or issues owner's or lender's title insurance commitments or policies in connection with such closings. [PL 1999, c. 478, §1 (NEW).]

[PL 2009, c. 261, Pt. B, §15 (AMD).]

SECTION HISTORY

PL 1983, c. 248, §3 (NEW). PL 1997, c. 83, §§1-3 (AMD). PL 1999, c. 478, §1 (AMD). PL 2009, c. 261, Pt. B, §15 (AMD).

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