

SECOND REGULAR SESSION

# HOUSE BILL NO. 2471

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE QUADE.

5233H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 407.600, 407.610, 407.620, 407.625, and 407.630, RSMo, and to enact in lieu thereof six new sections relating to timeshares, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 407.600, 407.610, 407.620, 407.625, and 407.630, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 407.600, 407.610, 407.620, 407.625, 407.630, and 407.631, to read as follows:

407.600. As used in sections 407.600 to ~~407.630~~ **407.631**, the following terms shall mean:

- (1) "Accommodations", any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure which is situated on real property and designed for occupancy by one or more individuals, which is made available to the purchasers of a ~~time-share~~ **timeshare** plan;
- (2) **"Commission", the Missouri real estate commission;**
- (3) **"Consumer timeshare reseller", an owner of a resale timeshare interest;**
- (4) "Enrolled", paid membership in an exchange program or membership in an exchange program evidenced by written acceptance or confirmation of membership;
- ~~(3)~~ (5) "Exchange company", the person operating an exchange program;
- ~~(4)~~ (6) "Exchange program", any opportunity or procedure for the assignment or exchange of ~~time-share~~ **timeshare** periods among purchasers in the same or other ~~time-share~~ **timeshare** plans;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           ~~[(5)]~~ (7) "Facilities", any structure, service, improvement, campground, recreational  
16 vehicle park or real property, improved or unimproved, which is made available to the purchasers  
17 of a ~~[time-share]~~ **timeshare** plan;

18           ~~[(6)]~~ (8) "Person", any natural person or his **or her** legal representative, partnership,  
19 domestic or foreign corporation, company, trust, business entity or association, and any agent,  
20 employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui  
21 que trust thereof;

22           ~~[(7)]~~ (9) **"Prize" or "gift", any merchandise offered in any timeshare promotional**  
23 **device, sweepstakes, drawing, or display booth that is used to induce or encourage the**  
24 **attendance of any timeshare sales solicitation or presentation;**

25           (10) "Promotion", any advertisement, whether by mail, radio, television, or personal  
26 sales, in which a ~~[time-share]~~ **timeshare** property is offered for sale by use of a sweepstakes;

27           ~~[(8)]~~ (11) **"Resale service provider", any person or entity, including any agent or**  
28 **employee of such a person or entity, who directly or indirectly offers or uses telemarketing,**  
29 **direct mail, email, or any other form of communication to offer timeshare resale services.**  
30 **"Resale service provider" shall not include:**

31           (a) **A newspaper, periodical, or publisher unless the newspaper, periodical, or**  
32 **publisher derives more than ten percent of its gross revenue from timeshare resale services.**  
33 **For purposes of this subdivision, the calculation of gross revenue derived from providing**  
34 **timeshare resale services shall include the revenue of any affiliate, parent, agent, or**  
35 **subsidiary of the newspaper, periodical, or publisher, so long as the resulting percentage**  
36 **of gross revenue is not decreased by such inclusion;**

37           (b) **A seller, managing entity, or other person responsible for managing or**  
38 **operating the timeshare plan to the extent they offer timeshare resale services to owners**  
39 **of timeshare interests in such a timeshare plan;**

40           (c) **A consumer timeshare reseller who, in a given calendar year, sells seven or**  
41 **fewer resale timeshare interests;**

42           (d) **An attorney licensed in this state and in good standing who provides legal**  
43 **services to end a timeshare interest; or**

44           (e) **A real estate broker licensed in this state and in good standing who operates**  
45 **within the scope of his or her license with respect to the sale of a resale timeshare interest,**  
46 **so long as the real estate broker does not collect a fee in advance;**

47           (12) **"Resale timeshare interest", a timeshare interest, including all or substantially**  
48 **all ownership, rights, or interests associated with the timeshare plan that was previously**  
49 **acquired by an owner for his or her own use and occupancy and is later offered or**  
50 **advertised for sale or rent;**

51           **(13) "Sweepstakes"**, a method of promoting the sale of ~~[time-share]~~ **timeshare** plans  
 52 which involves the offering, giving, or awarding of prizes which have odds associated with the  
 53 actual delivery of the prize or gift;

54           ~~[(9) "Time-share]~~ **(14) "Timeshare development"**, a single, specific parcel of real  
 55 **property from which only timeshare plans are offered for sale or sold;**

56           **(15) "Timeshare periods"**, all periods of time when a purchaser of a ~~[time-share]~~  
 57 **timeshare** plan is entitled to the possession and use of the accommodations or facilities, or both,  
 58 of a ~~[time-share]~~ **timeshare** plan regardless of whether such periods are designated as one or  
 59 more specific days, weeks or months;

60           ~~[(10) "Time-share developments", a single specific parcel of real property from which  
 61 only time-share plans are offered for sale or sold;~~

62           ~~——(11) "Time-share]~~ **(16) "Timeshare plan"**, any arrangement, plan, scheme or similar  
 63 device, other than an exchange program, whether by membership, agreement, tenancy in  
 64 common, sale, lease, deed, rental agreement, license, right-to-use agreement or any other means,  
 65 whereby a purchaser, in exchange for a consideration, receives one or more ~~[time-share]~~  
 66 **timeshare** periods, or any type of interval or joint ownership in, or a right-to-use, any  
 67 accommodation or facility for a period of time which is less than a full continuous and  
 68 uninterrupted year during any given year, and which extends for a period of more than three  
 69 years, as to each individual ~~[time-share]~~ **timeshare** development subject to the purchase;

70           ~~[(12) "Time-share]~~ **(17) "Timeshare resale service"**, either:

71           **(a) The advertising of, or an offer to advertise, any resale timeshare interest for  
 72 resale or rent; or**

73           **(b) The transfer, or offer to assist in the transfer, of legal ownership of any resale  
 74 timeshare interest;**

75           **(18) "Timeshare unit"**, an accommodation or facility of a ~~[time-share]~~ **timeshare** plan  
 76 which is divided into ~~[time-share]~~ **timeshare** periods, or is otherwise subject to interval or joint  
 77 ownership or use by the purchaser of the ~~[time-share]~~ **timeshare** plans[;

78           ~~——(13) "Prize/gift", any merchandise offered in any time-share promotional device,  
 79 sweepstakes, drawing or display booth which is used to induce or encourage the attendance of  
 80 any time-share sales solicitation or presentation].~~

407.610. 1. Any person who intends to use any promotional device or promotional  
 2 program, including any sweepstakes, gift award, drawing or display booth, or any other such  
 3 award or prize inducement items, to advertise, solicit sales or sell any ~~[time-share]~~ **timeshare**  
 4 period, ~~[time-share]~~ **timeshare** plan, or ~~[time-share]~~ **timeshare** property in the state of Missouri  
 5 or sell any tourist-related services as defined pursuant to subsection 9 of this section where a  
 6 consumer is required to provide any consideration other than monetary for such tourist-related

7 services, shall notify the Missouri attorney general in writing of this intention not less than  
8 fourteen days prior to release of such materials to the public. Included with such notice shall be  
9 an exact copy of each promotional device and promotional program to be used. Each  
10 promotional device, promotional program, and the notice thereof shall include the following  
11 information:

12 (1) A statement that the promotional device or promotional program is being used for  
13 the purpose of soliciting sales of a ~~[time-share]~~ **timeshare** period, ~~[time-share]~~ **timeshare** plan,  
14 or ~~[time-share]~~ **timeshare** property;

15 (2) The date by which all such awards or other prize inducement items will be awarded;

16 (3) The method by which all such items will be awarded;

17 (4) The odds of being awarded such items;

18 (5) The manufacturer's suggested retail price of such items; and

19 (6) The names and addresses of each ~~[time-share]~~ **timeshare** plan or business entity  
20 participating in the promotional device or promotional program.

21 2. In the case of any promotional device or promotional program to advertise, solicit  
22 sales, or sell any ~~[time-share]~~ **timeshare** period, ~~[time-share]~~ **timeshare** plan, or ~~[time-share]~~  
23 **timeshare** property in this state, the information required under subsection 1 of this section for  
24 each promotional device or promotional program, and the notice thereof, shall be provided in  
25 writing or electronically to the prospective purchaser at least once within a reasonable time  
26 period before a scheduled sales presentation to ensure that the prospective purchaser receives the  
27 information prior to attending such presentation. The required information need not be included  
28 in every advertisement or other written, oral or electronic communication provided or made to  
29 a prospective purchaser before a scheduled sales presentation.

30 3. Any material change in a promotional device or promotional program previously  
31 submitted to the attorney general shall constitute a new promotional device or promotional  
32 program and shall be resubmitted to the attorney general with the notice thereof.

33 4. It shall be a violation of section 407.020 for any person to:

34 (1) Fail to comply with the provisions of the notice requirements of this section;

35 (2) Provide to the attorney general in the notice required by this section any information  
36 that is false or misleading in a material manner;

37 (3) Represent to any person that the filing of the notice of the promotional device or the  
38 promotional program constitute an endorsement or approval of the promotional device or  
39 promotional program by the attorney general;

40 (4) Engage in any act or practice declared to be unlawful by section 407.020 in  
41 connection with the use of any promotional device or promotional program or any advertisement,

42 or sale of ~~[time-share]~~ **timeshare** plans, ~~[time-share]~~ **timeshare** periods, or ~~[time-share]~~  
43 **timeshare** property.

44 5. At least one of each prize featured in a promotional program shall be awarded by the  
45 day and year specified in the promotion. When a promotion promises the award of a certain  
46 number of each prize, such number of prizes shall be awarded by the date and year specified in  
47 the promotion. A record shall be maintained containing the names and addresses of winners of  
48 the prizes and the record shall be made available, upon request, to the public, upon the payment  
49 of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site  
50 visitation or visitation to a ~~[time-share]~~ **timeshare** sales office, the inducement gift which was  
51 promised, the seller shall deliver the gift, or an acceptable substitute therefor agreed upon in  
52 writing, to the prospective purchaser or purchaser no later than ten days following such  
53 visitation, or shall deliver instead of such gift cash in an amount equal to the retail value of the  
54 gift.

55 6. If a prospective purchaser or purchaser does not receive the gift or the cash as  
56 provided in subsection 5 of this section, he may bring an action under the provisions of section  
57 407.025. For purposes of actions brought pursuant to this section, the term "actual damages",  
58 as used in section 407.025, shall mean at least five times the cash retail value of the most  
59 expensive gift offered, but shall not exceed ~~[one]~~ **ten** thousand dollars, in addition to such other  
60 actual damages as may be determined by the evidence. **The seller shall also be liable for**  
61 **reasonable attorney's fees if the action is successful.**

62 7. The provisions of sections 407.600 to 407.630 shall not apply to a person who has  
63 acquired a ~~[time-share]~~ **timeshare** period for his **or her** own occupancy and later offers it for  
64 resale, **except as provided under section 470.631.**

65 8. If the sale of a ~~[time-share]~~ **timeshare** plan or of ~~[time-share]~~ **timeshare** property is  
66 subject to the provisions of sections 407.600 to ~~[407.630]~~ **407.631**, such sale shall not be subject  
67 to the provisions of chapter 339.

68 9. For the purposes of this section, the term "tourist-related services" includes, but is not  
69 limited to, selling or entering into contracts or other arrangements under which a purchaser  
70 receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment,  
71 sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of  
72 transportation directly to the consumer.

407.620. In addition to any other remedy by which such an agreement may be rescinded  
2 or otherwise voided, a purchaser of a ~~[time-share]~~ **timeshare** plan or ~~[time-share]~~ **timeshare**  
3 property has five days after the day of purchase to cancel the purchase. Printed notice of this  
4 right to cancel shall be given to the purchaser in writing with the use of 18-point boldface type  
5 in the following manner:

6

## NOTICE

7 YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHIN  
8 THIRTY DAYS AFTER THE DATE OF THIS AGREEMENT.  
9 CANCELLATION MUST BE IN WRITING AND IF SENT BY MAIL,  
10 ADDRESSED TO THE OTHER CONTRACTING PARTY AS SHOWN ON  
11 THIS AGREEMENT, CANCELLATION WILL BE ACCOMPLISHED AT THE  
12 MOMENT THE LETTER IS POSTMARKED. IF SENT BY MAIL, THE  
13 LETTER MAY BE CERTIFIED WITH A RETURN RECEIPT REQUESTED.  
14 YOUR RIGHT TO CANCEL CANNOT BE WAIVED.

407.625. 1. If a purchaser is offered the opportunity to subscribe to any exchange  
2 program, the developer shall, except as provided in subsection 2 of this section, deliver to the  
3 purchaser, prior to the execution of any contract between the purchaser and the exchange  
4 company and the sales contract, at least the following information regarding such exchange  
5 program, and the purchaser shall certify, in writing, to the receipt of such written information:

- 6 (1) The name and address of the exchange company;
- 7 (2) The names of all officers, directors, and shareholders owning five percent or more  
8 of the outstanding stock of the exchange company;
- 9 (3) Whether the exchange company or any of its officers or directors has any legal or  
10 beneficial interest in any developer or managing agent for any ~~[time-share]~~ **timeshare** plan  
11 participating in the exchange program and, if so, the name and location of the ~~[time-share]~~  
12 **timeshare** plan and the nature of the interest;
- 13 (4) Unless the exchange company is also the developer or an affiliate, a statement that  
14 the purchaser's contract with the exchange company is a contract separate and distinct from the  
15 sales contract;
- 16 (5) Whether the purchaser's participation in the exchange program is dependent upon the  
17 continued affiliation of the ~~[time-share]~~ **timeshare** plan with the exchange program;
- 18 (6) Whether the purchaser's membership or participation, or both, in the exchange  
19 program is voluntary or mandatory;
- 20 (7) A complete and accurate description of the terms and conditions of the purchaser's  
21 contractual relationship with the exchange company and the procedure by which changes thereto  
22 may be made;
- 23 (8) A complete and accurate description of the procedure to qualify for and effectuate  
24 exchanges;
- 25 (9) A complete and accurate description of all limitations, restrictions, or priorities  
26 employed in the operation of the exchange program, including, but not limited to, limitations on  
27 exchanges based on seasonality, unit size, or levels of occupancy, expressed in boldfaced type,

28 and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the  
29 exchange program, a clear description of the manner in which they are applied;

30 (10) Whether exchanges are arranged on a space available basis and whether any  
31 guarantees of fulfillment of specific requests for exchanges are made by the exchange program;

32 (11) Whether and under what circumstances an owner, in dealing with the exchange  
33 company, may lose the use and occupancy of his ~~[time-share]~~ **or her timeshare** in any properly  
34 applied for exchange without his **or her** being provided with substitute accommodations by the  
35 exchange company;

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

39 (13) The name and address of the site of each ~~[time-share]~~ **timeshare** property,  
40 accommodation or facility which is participating in the exchange program;

41 (14) The number of units in each property participating in the exchange program which  
42 are available for occupancy and which qualify for participation in the exchange program,  
43 expressed within the following numerical groupings: 1-5, 6-10, 11-20, 21-50, and 51 and over;

44 (15) The number of owners with respect to each ~~[time-share]~~ **timeshare** plan or other  
45 property which are eligible to participate in the exchange program expressed within the following  
46 numerical groupings: 1-100, 101-249, 250-499, 500-999, and 1,000 and over; and a statement  
47 of the criteria used to determine those owners who are currently eligible to participate in the  
48 exchange program;

49 (16) The disposition made by the exchange company of ~~[time-shares]~~ **timeshares**  
50 deposited with the exchange program by owners eligible to participate in the exchange program  
51 and not used by the exchange company in effecting exchanges;

52 (17) The following information, which, except as provided in subsection 2 of this  
53 section, shall be independently audited by a certified public accountant or accounting firm in  
54 accordance with the standards of the Accounting Standards Board of the American Institute of  
55 Certified Public Accountants and reported for each year no later than July first of the succeeding  
56 year, beginning no later than July 1, 1986:

57 (a) The number of owners enrolled in the exchange program. Such numbers shall  
58 disclose the relationship between the exchange company and owners as being either fee paying  
59 or gratuitous in nature;

60 (b) The number of ~~[time-share]~~ **timeshare** properties, accommodations or facilities  
61 eligible to participate in the exchange program categorized by those having a contractual  
62 relationship between the developer or the association and the exchange company and those  
63 having solely a contractual relationship between the exchange company and owners directly;

64 (c) The percentage of confirmed exchanges, which shall be the number of exchanges  
65 confirmed by the exchange company divided by the number of exchanges properly applied for,  
66 together with a complete and accurate statement of the criteria used to determine whether an  
67 exchange request was properly applied for;

68 (d) The number of ~~[time-shares]~~ **timeshares** for which the exchange company has an  
69 outstanding obligation to provide an exchange to an owner who relinquished a ~~[time-share]~~  
70 **timeshare** during the year in exchange for a ~~[time-share]~~ **timeshare** in any future year;

71 (e) The number of exchanges confirmed by the exchange company during the year;

72 (18) A statement in boldfaced type to the effect that the percentage described in  
73 paragraph (c) of subdivision (17) of this subsection is a summary of the exchange requests  
74 entered with the exchange company in the period reported and that the percentage does not  
75 indicate a purchaser's/owner's probabilities of being confirmed to any specific choice or range  
76 of choices, since availability at individual locations may vary.

77 2. The information required by subsection 1 of this section shall be accurate as of a date  
78 which is no more than thirty days prior to the date on which the information is delivered to the  
79 purchaser; except that, the information required by subdivisions (2), (3), (13), (14), (15) and (17)  
80 of subsection 1 of this section shall be accurate as of December thirty-first of the preceding year  
81 if the information is delivered between July first and December thirty-first of any year;  
82 information delivered between January first and June thirtieth of any year shall be accurate as  
83 of December thirty-first of the year prior to the preceding year. At no time shall such  
84 information be accurate as of a date which is more than eighteen months prior to the date of  
85 delivery. All references in this subsection to the word "year" shall mean calendar year.

86 3. In the event an exchange company offers an exchange program directly to the  
87 purchaser or owner, the exchange company shall deliver to each purchaser or owner,  
88 simultaneously with such offering and prior to the execution of any contract between the  
89 purchaser or owner and the exchange company, the information set forth in subsection 1 of this  
90 section. The requirements of this subsection shall not apply to any renewal of a contract between  
91 an owner and an exchange company.

92 4. Each exchange company shall include the statement set forth in subdivision (18) of  
93 subsection 1 of this section on all promotional brochures, pamphlets, advertisements, or other  
94 materials disseminated by the exchange company which also contain the percentage of confirmed  
95 exchanges described in paragraph (c) of subdivision (17) of subsection 1 of this section.

96 5. An exchange company shall, on or before July first of each year, file with the attorney  
97 general and secretary of the association for the ~~[time-share]~~ **timeshare** plan in which the  
98 ~~[time-shares]~~ **timeshares** are offered or disposed, the information required by subsection 1 of  
99 this section with respect to the preceding year. If the attorney general determines that any of the



100 information supplied fails to meet the requirements of this section, the attorney general may  
101 undertake enforcement action against the exchange company in accordance with the provisions  
102 of sections 407.600 to ~~[407.630]~~ **407.631**. No developer shall have any liability arising out of  
103 the use, delivery or publication by the developer of written information provided to it by the  
104 exchange company pursuant to this section. Except for written information provided to the  
105 developer by the exchange company, no exchange company shall have any liability with respect  
106 to any representation made by the developer relating to the exchange program or exchange  
107 company; or the use, delivery or publication by the developer of any information relating to the  
108 exchange program or exchange company. The failure of the exchange company to observe the  
109 requirements of this section, or the use by it of any unfair or deceptive act or practice in  
110 connection with the operation of the exchange program, shall be a violation of sections 407.600  
111 to ~~[407.630]~~ **407.631**.

112 6. The offering of an exchange program in this state in conjunction with the offer or sale  
113 of ~~[time-shares]~~ **timeshares** in this state shall not constitute a security under the laws of this  
114 state.

407.630. 1. A ~~[time-share]~~ **timeshare** plan or ~~[time-share]~~ **timeshare** property is  
2 merchandise under the provisions of this chapter and the sale or offering for sale of such plans  
3 or property shall be subject to the provisions of sections 407.010 to 407.140, unless otherwise  
4 specifically provided in sections 407.600 to ~~[407.630]~~ **407.631**.

5 2. Violation of any provision of sections 407.600 to 407.620 or **section 470.631** is a  
6 class A misdemeanor.

**407.631. 1. Before engaging in any timeshare resale service, a resale service  
2 provider shall provide a written contract to the consumer timeshare reseller that includes:**

3 **(1) The name, physical address, telephone number, and website address, if any, of  
4 the resale service provider and any other agent or third party who shall provide any  
5 timeshare resale service on behalf of the resale service provider;**

6 **(2) The name, physical address, telephone number, and email address of the escrow  
7 agent, if applicable, that shall hold moneys or other property under this section;**

8 **(3) A complete description of the timeshare resale services;**

9 **(4) The duration of the contract for timeshare resale services expressed in days,  
10 weeks, months, or years;**

11 **(5) A description of any fees, costs, or other consideration to be paid to the resale  
12 service provider or an agent or third party acting on its behalf. Such fees shall include  
13 marketing and advertising fees or commissions that are paid upon the sale of a resale  
14 timeshare interest;**

15 (6) A statement, if applicable, that the resale service provider shall deliver to the  
 16 consumer timeshare reseller all documentation evidencing the transfer of legal ownership  
 17 of the resale timeshare interest as provided under subsection 2 of this section;

18 (7) A statement, if applicable, that the consumer timeshare reseller shall have five  
 19 business days from the date they receive the notice of right to dispute the released moneys  
 20 from the escrow agent as referenced under subsection 2 of this section;

21 (8) The internet addresses and telephone numbers for both the commission and the  
 22 consumer protection section of the attorney general's office;

23 (9) A term that the consumer may cancel the contract without cause within thirty  
 24 business days; and

25 (10) A statement printed in at least twelve-point, boldfaced type immediately  
 26 preceding the space in the contract for the consumer timeshare reseller's signature in  
 27 substantively the following form:

28 NOTICE

29 You have an unwaivable right to cancel this contract for any reason  
 30 within thirty business days after the date you sign this contract. If you  
 31 decide to cancel this contract, you must notify (name of resale service  
 32 provider) in writing of your intent to cancel. Your notice of cancellation  
 33 shall be effective upon the date sent and must be sent to (resale service  
 34 provider's mailing address) or to (resale service provider's email address).  
 35 Your refund will be made within twenty days after receipt of notice of  
 36 cancellation or within five days after receipt of moneys from your cleared  
 37 check, whichever is later. You are not obligated to pay (name of resale  
 38 service provider) any money unless you sign this contract and return it to  
 39 (name of resale service provider).

40 Before signing this contract, you should carefully review your  
 41 original timeshare purchase contract and other project documents to  
 42 determine whether there are any restrictions or special conditions applicable  
 43 to the resale or rental of your timeshare interest. You also may wish to  
 44 contact your resort management company or your timeshare association to  
 45 learn about resale or rental options that may be available to you.

46 2. With respect to all fees, costs, and compensation paid to a resale service provider:

47 (1) A consumer timeshare reseller shall not be charged an appraisal fee in  
 48 connection with the sale or rental of a resale timeshare interest;

49 (2) A consumer timeshare reseller may be charged reasonable marketing or  
 50 advertising fees prior to the sale or rental of a resale timeshare interest; and

51           **(3) A consumer timeshare reseller shall not pay any advance fee, cost, or**  
52 **compensation for timeshare resale services, except as provided under subdivision (2) of this**  
53 **subsection, unless one hundred percent of the moneys are deposited into an escrow account**  
54 **until the timeshare resale service is completed and the following requirements are satisfied:**

55           **(a) The timeshare resale service provider presents an affidavit to the escrow agent**  
56 **that all promised timeshare resale services have been performed, including delivery of a**  
57 **copy of the recorded instrument or other legal document that evidences the transfer of**  
58 **ownership or of legal title to the resale timeshare interest to both the consumer timeshare**  
59 **reseller and the timeshare plan managing entity;**

60           **(b) The escrow agent's submission of the affidavit and a notice of right to dispute**  
61 **the release of moneys or property in escrow to the consumer timeshare reseller. The notice**  
62 **shall state that the consumer timeshare reseller shall have five business days after receipt**  
63 **of such affidavit to submit a written dispute to the escrow agent that all promised**  
64 **timeshare resale services have in fact not been fully performed by the resale service**  
65 **provider. The consumer timeshare reseller may submit the dispute by email or regular**  
66 **mail. The dispute is effective upon the date sent; and**

67           **(c) Failure of the consumer timeshare reseller to submit a dispute under subdivision**  
68 **(b) of this subsection.**

69

70 **If the escrow agent receives conflicting demands for moneys or other property held in**  
71 **escrow, the escrow agent shall immediately notify the commission of the dispute and either**  
72 **promptly submit the matter to arbitration or, by interpleader or otherwise, seek an**  
73 **adjudication of the matter by court. The commission may audit or examine any escrow**  
74 **account required under this subsection. The resale service provider shall make documents**  
75 **relating to the escrow account or escrow obligation available to the commission upon the**  
76 **commission's request. The escrow agent shall retain all resale transfer agreements, escrow**  
77 **account records, affidavits, and notices of dispute received pursuant to this subsection for**  
78 **three years.**

79           **3. Engagement in any timeshare resale service, or receipt of consideration in**  
80 **connection with any timeshare resale service, without an executed written contract as**  
81 **required under this section creates a rebuttable presumption of a violation of this section.**  
82 **The transfer of a resale timeshare interest to a person whom the resale service provider**  
83 **knows or should have known has demonstrated a pattern of nonpayment of assessments,**  
84 **taxes, or fees associated with the obligations of ownership creates a rebuttable presumption**  
85 **of this as a violation of this section.**

86           **4. Providing timeshare resale services with respect to a consumer resale timeshare**  
87 **interest in a timeshare property located or offered within this state or required to be**  
88 **registered in this state, including acting as an agent or third-party service provider for a**  
89 **resale service provider, constitutes operating, conducting, engaging in, or carrying on a**  
90 **business or business venture in this state.**

91           **5. A contract for timeshare resale services resulting from conduct in violation of**  
92 **this section is voidable by the consumer timeshare reseller, and the resale service provider**  
93 **shall return all consideration received under the contract to the consumer timeshare**  
94 **reseller.**

95           **6. (1) A person or entity who violates the provisions of this section commits an**  
96 **unfair trade practice and is subject to all civil penalties and remedies under law for the**  
97 **violation.**

98           **(2) If a court, based upon the evidence presented by the parties, determines, in its**  
99 **discretion, that a person's actions under this section were inadvertent, unintentional, and**  
100 **not an effort to violate the provisions of this section, the court may hold that the person's**  
101 **actions were nonmaterial, technical violations, and the court may assess a technical**  
102 **violation penalty not exceeding two hundred dollars as its only penalty. The court's**  
103 **determination that a violation is a nonmaterial, technical violation in no way prevents the**  
104 **court from assessing full penalties under this section for any other violation it determines**  
105 **to be a plan or scheme.**

106           **7. The consumer protection unit of the attorney general's office may enforce this**  
107 **section and impose penalties, including those under section 470.630; warning notices of**  
108 **deficiency; cease and desist orders; and refunds of fees, costs, or compensation assessed or**  
109 **received in violation of this section. A person aggrieved by the attorney general's final**  
110 **administrative order may appeal the order to the administrative hearing commission. If**  
111 **the person fails to timely request a hearing, the department may bring an action to enforce**  
112 **its order.**

113           **8. Timeshare interests are subject to the protections of the Service Members Civil**  
114 **Relief Act, 50 U.S.C. Section 3901 et seq.**

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