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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 4. REAL ESTATE [10000 - 11506]** ( *Division 4 added by Stats. 1943, Ch. 127.*  )

**PART 2. REGULATION OF TRANSACTIONS [11000 - 11288]** ( *Part 2 added by Stats. 1943, Ch. 127.*  )

**CHAPTER 2. The Vacation Ownership and Time-Share Act of 2004 [11210 - 11288]** ( *Chapter 2 added by Stats. 2004, Ch. 697, Sec. 14.*  )

**ARTICLE 2. Registration, Sale Requirements, and Fees [11225 - 11246]** ( *Article 2 added by Stats. 2004, Ch. 697, Sec. 14.*  )

**11225.** A person shall not be required to register a time-share plan with the commissioner pursuant to this chapter if any of the following applies:

(a) The person is an owner of a time-share interest who has acquired the time-share interest for the person's own use and occupancy and who later offers it for resale.

(b) The person is a managing entity or an association that is not otherwise a developer of a time-share plan in its own right, solely while acting as an association or under a contract with an association to offer or sell a time-share interest transferred to the association through foreclosure, deed in lieu of foreclosure, or gratuitous transfer, if these acts are performed in the regular course of, or as an incident to, the management of the association for its own account in the time-share plan. Notwithstanding the exemption from registration, the association or managing entity shall provide each purchaser of a time-share interest covered by this subdivision a copy of the time-share instruments, a copy of the then-current budget, a written statement of the then-current assessment amounts, and shall provide the purchaser the opportunity to rescind the purchase within seven days after receipt of these documents. Immediately prior to the space reserved in the contract for the signature of the purchaser, the association or managing entity shall disclose, in conspicuous type, substantially the following notice of cancellation:

YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN SEVEN CALENDAR DAYS OF RECEIPT OF THE PUBLIC REPORT OR AFTER THE DATE YOU SIGN THIS CONTRACT, WHICHEVER DATE IS LATER. IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE ASSOCIATION (OR MANAGING ENTITY) IN WRITING OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT TO (NAME OF ASSOCIATION OR MANAGING ENTITY) AT (ADDRESS OF ASSOCIATION OR MANAGING ENTITY). YOUR NOTICE OF CANCELLATION MAY ALSO BE SENT BY FACSIMILE TO (FACSIMILE NUMBER OF THE ASSOCIATION OR MANAGING ENTITY) OR BY HAND-DELIVERY. ANY ATTEMPT TO OBTAIN A WAIVER OF YOUR CANCELLATION RIGHT IS VOID AND OF NO EFFECT.

(c) The person is conveyed, assigned, or transferred more than seven time-share interests from a developer in a single voluntary or involuntary transaction and subsequently conveys, assigns, or transfers all of the time-share interests received from the developer to a single purchaser in a single transaction.

(d) (1) The developer is offering or disposing of a time-share interest to a purchaser who has previously acquired a time-share interest from the same developer if the developer has a time-share plan registered under this chapter, which was originally approved by the commissioner within the preceding seven years, and the developer complies in all respects with the provisions of Section 11245, and, further, provides the purchaser with (A) a cancellation period of at least seven days, (B) all the time-share disclosure documents that are required to be provided to purchasers as if the sale occurred in the state or jurisdiction where the time-share property is located, and (C) the following disclaimer in conspicuous type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE

ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(2) By making that offering or disposition, the person is deemed to consent to the jurisdiction of the commissioner in the event of a dispute with the purchaser in connection with the offering or disposition.

(e) It is a single site time-share plan located outside of the boundaries of the United States or component site of a specific time-share interest multisite time-share plan located wholly outside of the boundaries of the United States, or a nonspecific time-share interest multisite time-share plan in which all component sites are located wholly outside of the boundaries of the United States. However, it is unlawful and a violation of this chapter for a person, in this state, to sell or lease or offer for sale or lease a time-share interest in a time-share plan, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in capital letters of at least 10-point type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(1) If an offer of time-share interest in a time-share plan described in this subdivision is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(2) If any California resident is presented with an agreement or purchase contract to lease or purchase a time-share interest as described in this subdivision, when an offer to lease or purchase that time-share interest was made to that resident in California, a copy of the disclaimer set forth in this subdivision shall be inserted in at least 10-point type at the top of the first page of that agreement or purchase contract and shall be initialed by that California resident.

(3) This subdivision shall not be deemed to exempt from registration in this state a nonspecific time-share interest multisite time-share plan in which any component site in the time-share plan is located in the United States.

*(Amended by Stats. 2021, Ch. 431, Sec. 35. (SB 800) Effective January 1, 2022.)*

**11226.** (a) Any person who, to any individual located in the state, sells, offers to sell, or attempts to solicit prospective purchasers to purchase a time-share interest, or any person who creates a time-share plan with an accommodation in the state, shall register the time-share plan with the commissioner, unless the time-share plan is otherwise exempt under this chapter.

(b) A developer, or any of its agents, shall not sell, offer, or dispose of a time-share interest in the state unless all necessary registration requirements are provided and approved by the commissioner, or the sale, offer, or disposition is otherwise permitted by this chapter, or while an order revoking or suspending a registration is in effect.

(c) In registering a time-share plan, the developer shall provide the commissioner all of the following information:

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

(2) The name of the developer's authorized or registered agent in the state upon whom claims can be served or service of process be had, the agent's street address in California, and telephone number.

(3) The name, street address, mailing address, primary contact person, and telephone number of the time-share plan being registered.

(4) The name, street address, mailing address, and telephone number of any managing entity of the time-share plan.

(5) A public report that complies with the requirements of Section 11234, or for a time-share plan located outside of the state, a public report that has been authorized for use by the situs state regulatory agency and that contains disclosures as determined by

the commissioner upon review to be substantially equivalent to or greater than the information required to be disclosed pursuant to Section 11234.

(6) A description of the inventory control system that will ensure compliance with Section 11250.

(7) Any other information regarding the developer, time-share plan, or managing entities as established by regulation.

(d) An applicant for a public report for a time-share plan shall present evidence of the following for each accommodation in each time-share property that is, or will be, offered for sale in this state pursuant to the registration:

(1) That the accommodation is presently suitable for human occupancy or that financial arrangements have been made to complete construction or renovation of the accommodation to make it suitable for human occupancy on or before the first date for occupancy by a time-share interest owner.

(2) That the accommodation is owned or leased by the developer of the time-share plan or is the subject of an enforceable option or contract under which the developer will build, purchase, or lease the accommodation. Notwithstanding this subdivision, the developer shall present evidence prior to the receipt of a final public report that the accommodation to be sold is owned or leased by the developer and that the accommodation is free and clear of encumbrances in accordance with Sections 11244 and 11255.

(e) If an accommodation in a time-share plan is located within a local governmental jurisdiction or subdivision of real property in which the dedication of accommodations to time-sharing is expressly prohibited by ordinance or recorded restriction, either absolutely or without a permit or other entitlement from the governing body, the applicant for a public report shall present evidence of a permit or other entitlement by the appropriate authority for the local government or the subdivision.

(f) (1) The developer shall amend or supplement its disclosure documents and registration information, to reflect any material change in any information required by this chapter or the regulations implementing this chapter. The developer shall notify the commissioner 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 commissioner as soon as reasonably practicable after the occurrence of the event necessitating the change. All amendments, supplements, and facts relevant to the material change shall be filed with the commissioner within 20 calendar days of the material change.

(2) The developer may continue to sell time-share interests in the time-share 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 report.

(A) If the change is material and adverse to the purchaser, all purchaser funds shall be held in escrow, or pursuant to alternative assurances permitted by subdivision (c) of Section 11243, and no closing shall occur until the amendment relating to the material and adverse change has been approved by the commissioner. After the amendment relating to the material and adverse change has been approved and the amended public report has been issued, the amended public report shall be sent 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 report.

(B) If the commissioner 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 report to reflect any changes to the time-share plan that are not material and adverse, including the addition of any component sites, within a reasonable time, and may continue to sell and close time-share interests prior to the date that the amended public report is approved.

(g) An applicant for a public report for a multisite, time-share plan consisting of specific time-share interests, as defined in subparagraph (A) of paragraph (2) of subdivision (z) of Section 11212, affiliated with sites operated through the time-share plan's reservation system, shall certify both of the following:

(1) That a purchaser has, or will have, contractual or membership rights to use accommodations at each affiliated site and that, if an accommodation or promised improvement is, or may become, subject to a blanket encumbrance, that the blanket encumbrance is, or will be, subordinate to these rights.

(2) That a certificate of occupancy has been issued with respect to the accommodations at each affiliated site or that adequate provisions exist or will exist for the completion of all such accommodations. For any affiliated site accommodations that are not complete, the public report shall clearly identify in conspicuous type that those accommodations are not completed. For any accommodations that are not complete and for which adequate provisions for completion do not exist at the time the public report is issued, the public report shall also provide in conspicuous type that those accommodations might not be built, provided, however, that a developer's failure to build the accommodations shall not relieve the developer of any obligations created by the certification made pursuant to this subdivision.

(h) For purposes of subdivision (d) of this section, the "time-share property being offered for sale in this state" shall mean the following:

- (1) With respect to a single site time-share plan, the time-share property being registered pursuant to this chapter.
- (2) With respect to a specific time-share interest multisite time-share plan, the specific time-share property being registered pursuant to this chapter.
- (3) With respect to a nonspecific time-share interest multisite time-share plan, all time-share properties in the time-share plan.

*(Amended by Stats. 2006, Ch. 429, Sec. 2. Effective September 22, 2006. Operative January 1, 2007, by Sec. 12 of Ch. 429.)*

**11226.1.** Any person offering to sell or lease any interest subject to the requirements of Section 11226 shall make a copy of each of the following documents available for examination by a prospective purchaser or lessee before the execution of an offer to purchase or lease and shall give a copy of those documents to each purchaser or lessee as soon as practicable before transfer of the interest being acquired by the purchaser or lessee:

- (a) The declaration of covenants, conditions, and restrictions for the time-share plan.
- (b) Articles of incorporation or association for the time-share owners' association.
- (c) Bylaws of the owners' association.
- (d) Any other instrument that establishes or defines the common, mutual, and reciprocal rights and responsibilities of the owners or lessees of interest in the time-share plan as members of the owners' association or otherwise.
- (e) The current budget and financial statements for the time-share plan.

*(Added by Stats. 2006, Ch. 429, Sec. 3. Effective September 22, 2006. Operative January 1, 2007, by Sec. 12 of Ch. 429.)*

**11227.** (a) Subject to subdivision (h), the commissioner shall issue a final public report if all registration requirements have been met as set forth in this chapter and if all deficiencies and substantive inadequacies in the substantially complete application for a final public report for the time-share plan have been corrected.

(b) The commissioner may issue a conditional public report prior to issuing a final public report for a time-share plan if the requirements of subdivision (c) are met, all deficiencies and substantive inadequacies in the substantially complete application for a final public report for the time-share plan have been corrected, the material elements of the offering to be made under the authority of the conditional public report have been established, and all requirements for the issuance of the conditional public report have been met, except for one or more of the following requirements, as may be applicable:

- (1) A final map has not been recorded.
- (2) A condominium plan has not been recorded.
- (3) A declaration of covenants, conditions, and restrictions has not been recorded.
- (4) A declaration of annexation has not been recorded.
- (5) A recorded subordination of existing liens to the time-share instruments or declaration of annexation or escrow instructions to effect recordation prior to the first sale, are lacking.
- (6) Filed articles of incorporation are lacking.
- (7) A current preliminary report of a licensed title insurance company issued after filing of the final map and recording of the time-share instrument covering all time-share interests to be included in the public report has not been provided.
- (8) Other requirements the commissioner determines are likely to be timely satisfied by the applicant.

(c) An applicant for a conditional public report shall submit the following information and documents with the applicable filing fee:

- (1) A copy of the statement set forth in subdivision (e).
- (2) A sales agreement or lease to be used in any transaction conducted under authority of the conditional public report. The sales agreement or lease shall include all of the following provisions:
  - (A) No escrow will close, funds will not be released from escrow, and the interest contracted for will not be conveyed until a current final public report for the time-share plan is furnished to the purchaser.

(B) The contract may be rescinded, in which event the entire sum of money paid or advanced by the purchaser shall be returned if (i) a final public report has not been issued within six months after the date of issuance of the conditional public report if the conditional public report is not renewed, (ii) the final public report is not issued within 12 months after the initial conditional public report is received if the conditional public report has been renewed for an additional six-month period, or (iii) the purchaser or lessee is dissatisfied with the final public report because of a material and adverse change.

(3) Escrow instructions to be used in any transaction conducted under authority of the conditional public report that includes at least the following information:

(A) The name and address of the escrow depository.

(B) A description of the nature of the transaction.

(C) Provisions ensuring compliance with Section 11243.

(D) Provisions ensuring that no escrow will close, funds will not be released from escrow, and the interest contracted for will not be conveyed until a current final public report for the time-share plan is furnished to the purchaser or lessee.

(E) Provisions for the return of money as prescribed in subparagraph (B) of paragraph (2).

(d) A decision by the commissioner to not issue a conditional public report shall be noticed in writing to the applicant within five business days after his or her decision and that notice shall specifically state the reasons why the report is not being issued.

(e) A person may sell or lease, or offer for sale or lease, time-share interests in a time-share plan pursuant to a conditional public report if, as a condition of the sale or lease or offer for sale or lease, delivery of legal title or other interest contracted for will not take place until issuance of a final public report and provided that the requirements of subdivision (c) are met.

(f) A developer, principal, or his or her agent shall provide a prospective purchaser a copy of the conditional public report and a written statement including all of the following information:

(1) Specification of the information required for issuance of a final public report.

(2) Specification of the information required in the final public report that is not available in the conditional public report, along with a statement of the reasons why that information is not available at the time of issuance of the conditional public report.

(3) A statement that no person acting as a principal or agent shall sell or lease, or offer for sale or lease, time-share interests in a time-share plan for which a conditional public report has been issued except as provided in this chapter.

(4) Specification of the requirements of subdivision (e).

(g) The prospective purchaser shall sign a receipt that he or she has received and has read the conditional public report and the written statement provided pursuant to subdivision (f).

(h) The term of a conditional public report may not exceed six months unless renewed pursuant to this subdivision. The conditional public report may be renewed for one additional six-month period if the commissioner determines that the requirements for issuance of a final public report are likely to be satisfied during the renewal term. The renewal of a conditional public report shall not act to afford a purchaser who received the initial conditional public report any additional rescission rights other than those provided to a purchaser when a final public report is issued and a material and adverse change has been made.

(i) For single site time-share plans and component sites of a multisite time-share plan located outside of the state, a disclosure document that has been authorized for use by the state regulatory agency in the state in which the time-share plan or component site is located that contains the disclosures as determined by the commissioner upon review to be substantially equivalent to or greater than the information required to be disclosed pursuant to Section 11234, shall be accepted in lieu of a public report required pursuant to this section. The disclosure document shall contain a cover page issued by the commissioner certifying the approval of its use in lieu of the public report required herein.

(j) Notwithstanding anything in this section to the contrary, the commissioner may grant a 12-month preliminary public report allowing the developer to begin offering and selling time-share interests, in a time-share plan regardless of whether the accommodations of the time-share plan are located within or outside of the state, while the registration is pending with the commissioner. The commissioner may grant one additional 12-month period if the developer is actively and diligently pursuing registration under this chapter. The preliminary public report shall automatically terminate with respect to those time-share interests covered by a final public report that is issued before the scheduled termination date of the preliminary report. To obtain a preliminary public report, 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 interest bearing escrow account.

(2) Agree to provide each potential purchaser with a copy of the preliminary public report 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, and place any deposit taken from the potential purchaser into a neutral escrow depository acceptable to the commissioner.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11228.** The term of a final public report shall be limited to five years. A renewal shall be issued if the developer, owner, or agent makes application for renewal of any report and has submitted the additional information that the commissioner may require.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11229.** (a) In connection with its review of the registration application of a time-share plan, the commissioner may make an examination of any time-share property submitted for registration pursuant to this chapter, and shall, unless there are grounds for denial, issue to the developer a public report authorizing the sale or lease in this state of the time-share interests within the time-share plan submitted pursuant to this chapter. The report shall contain the data obtained in accordance with Section 11234.

(b) The commissioner may deny the issuance of the public report based on the applicant's failure to comply with any of the provisions of this chapter or the regulations of the commissioner pertaining thereto, including, but not limited to, all of the following:

(1) The sale or lease would constitute misrepresentation to, or deceit or fraud of, the purchasers or lessees.

(2) Inability to deliver title or other interest contracted for.

(3) Inability to demonstrate, in accordance with this chapter, that adequate financial arrangements have been made for all offsite improvements included in the offering.

(4) Inability to demonstrate, in accordance with this chapter, that adequate financial arrangements have been made for any community, recreational, or other facilities included in the offering.

(5) Failure to make a showing that the parcels can be used for the purpose for which they are offered.

(6) Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto.

(c) Any developer objecting to the denial of a public report may, within 30 days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within 20 days thereafter unless the party requesting the hearing requests a postponement. If the hearing is not held within 20 days after request for a hearing is received plus the period of the postponement or if a proposed decision is not rendered within 45 days after submission and an order adopting or rejecting the proposed decision is not issued within 15 days thereafter, the order of denial shall be rescinded and a public report issued.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11230.** If the time-share plan, including any accommodations, or amenities within the common area are not completed prior to the issuance of a final public report for the time-share plan, the developer shall specify a reasonable date for completion and shall comply with any one of the following conditions:

(a) Arranges for lien and completion bond or bonds, enforceable by the association, in an amount and subject to the terms, conditions, and coverage necessary to assure completion of the improvements lien-free. The bond shall not exceed 120 percent of the cost for completion, and the bond shall provide for the reduction of the bond amount as work is completed.

(b) All funds from the sale of time-share interests as the commissioner shall determine are sufficient to assure construction of the improvement or improvements shall be bonded or impounded in a neutral escrow depository acceptable to the commissioner until the improvements have been completed and all applicable lien periods have expired.

(c) An amount sufficient to cover the costs of construction shall be deposited in a neutral escrow depository acceptable to the commissioner under a written escrow agreement providing for disbursements from the escrow as work is completed.

(d) An alternative plan that may be approved by the commissioner.

**11231.** Every registration required to be filed with the commissioner under this chapter shall be reviewed and issued the specified public report in accordance with the following schedule:

(a) Time-share registration. Registration shall be effective only upon the issuance of a public report by the commissioner that shall occur no later than 60 calendar days after the actual receipt by the commissioner of the properly completed application. The commissioner shall provide a list of deficiencies in the application, if any, within 60 calendar days of receipt. This same time period applies when amending a public report to add additional phases or component sites of the time-share plan.

(b) Preliminary public report registration. A preliminary public report shall be issued within 15 calendar days of receipt, unless the commissioner provides to the applicant a written list of deficiencies in the application, if any, within 15 calendar days of receipt of an application.

(c) Amended public report where no additional phases or component sites are added. An effective date for an amendment to a public report should occur no more than 45 calendar days after actual receipt by the commissioner of the amendment. The commissioner shall provide a list of deficiencies regarding the amendments, if any, within 45 calendar days of receipt.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11232.** (a) The commissioner may by regulation prescribe filing fees in connection with applications to the Department of Real Estate for a public report pursuant to the provisions of this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed. At this hearing, the department shall report on the financial status of the department, including the revenues, expenditures, and reserves as of the end of the previous fiscal year. The department shall post a hearing notice 15 days in advance of the hearing that includes the required information about the financial status of the department.

(b) The filing fees for an application for a public report to be issued under authority of this chapter shall be set at the amount prescribed below and shall not exceed the maximum specified for each time-share plan, location, or phase of the time-share plan in which interests are to be offered for sale or lease:

(1) Two thousand five hundred dollars (\$2,500), not to exceed three thousand two hundred fifty dollars (\$3,250), plus fifteen dollars (\$15), not to exceed twenty dollars (\$20), for each time-share interest to be offered for an original public report application.

(2) One thousand five hundred dollars (\$1,500), not to exceed one thousand nine hundred fifty dollars (\$1,950), plus fifteen dollars (\$15), not to exceed twenty dollars (\$20), for each time-share plan interest to be offered that was not permitted to be offered under the public report to be renewed for a renewal public report or permit application.

(3) One thousand five hundred dollars (\$1,500), not to exceed one thousand nine hundred fifty dollars (\$1,950), plus fifteen dollars (\$15), not to exceed twenty dollars (\$20), for each time-share interest to be offered under the amended public report for which a fee has not previously been paid for an amended public report application.

(4) One thousand dollars (\$1,000), not to exceed one thousand three hundred dollars (\$1,300), for a conditional public report application.

(5) Five hundred dollars (\$500), not to exceed six hundred fifty dollars (\$650), for a preliminary public report application.

(c) Fees collected by the commissioner under authority of this chapter shall be deposited into the Real Estate Fund pursuant to Chapter 6 (commencing with Section 10450) of Part 1. Fees received by the commissioner pursuant to this article shall be deemed earned upon receipt. A fee is not refundable unless the commissioner determines that it was paid as a result of mistake or inadvertency. This section shall remain in effect unless it is superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

*(Amended by Stats. 2024, Ch. 41, Sec. 18. (SB 164) Effective June 29, 2024.)*

**11233.** An applicant for a public report for a time-share plan in which the use and occupancy of the time-share interest purchased in the time-share plan is determined according to a point system shall include in the application the following information:

(a) Whether additional points may be acquired by purchase or otherwise, in the future and the manner in which future purchases of points may be made.

(b) The transferability of points to other persons, other years or other time-share plans.

(c) A copy of the then-current point value use directory, along with rules and procedures for changes by the developer or the association in the manner in which point values may be used.

(1) No change exceeding 10 percent per annum in the manner in which point values may be used may be made without the assent of at least 25 percent of the voting power of the association other than the developer.

(2) No time-share interest owner shall be prevented from using a time-share plan as a result of changes in the manner in which point values may be used.

(3) In the event point values are changed or adjusted, no time-share owner shall be prevented from using his or her home resort in the same manner as was provided for under the original purchase contract.

(d) Any limitations or restrictions upon the use of point values.

(e) A description of an inventory control system that will ensure compliance with Section 11250.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11234.** A developer shall prepare, for issuance by the commissioner, a public report that shall fully and accurately disclose those facts concerning the time-share developer and time-share plan that are required by this chapter or by regulation. The developer shall provide the public report to each purchaser of a time-share interest in a time-share plan at the time of purchase. The public report shall be in writing or in a digital format at the discretion of the purchaser and dated and shall require the purchaser to certify in writing the receipt thereof. The public report for a single site time-share plan is subject to the requirements of subdivision (a). The public report for a specific time-share interest multisite time-share plan is subject to the requirements of both subdivisions (a) and (b). The public report for a nonspecific time-share interest multisite time-share plan is subject to the requirements of subdivision (c). For time-share plans located outside of the state, a public report that has been authorized for use by the situs state regulatory agency and that contains disclosures as determined by the commissioner upon review to be substantially equivalent to or greater than the information required to be disclosed pursuant to this section may be used by the developer to meet the requirements of this section. A developer may, upon approval by the commissioner, submit a public report that combines, in a manner prescribed by the commissioner, the information required to be disclosed by the applicable subdivisions of this section and the information required to be disclosed in a public report issued by a regulatory agency in one or more other states.

(a) Public reports for a single site and those component sites of a specific time-share interest multisite time-share plan that are offered in this state shall include the following:

(1) The name and address of the developer and the type of time-share plan being offered and the name and address of the time-share project.

(2) A description of the existing or proposed accommodations, including the type and number of time-share interests in the accommodations, and if the accommodations are proposed or not yet complete or fully functional, an estimated date of completion.

(3) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to the time-share plan, committed to the multisite time-share plan, and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(4) A description of any existing or proposed amenities of the time-share plan and, if the amenities are proposed or not yet complete or fully functional, the estimated date of completion.

(5) The extent to which financial arrangements have been made for the completion of any incomplete, promised improvements.

(6) A description of the duration, phases, and operation of the time-share plan.

(7) 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.

(8) The current annual budget as required by Section 11240, along with the projected assessments and a description of the method for calculating and apportioning the assessments among purchasers, all of which shall be attached as an exhibit to the public report.

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

(10) A description of any financing offered by or available through the developer.



(11) A description of any liens, defects, or encumbrances on or affecting the title to the time-share interests.

(12) A description of any bankruptcies, pending civil or criminal suits, adjudications, or disciplinary actions of which the developer has knowledge, that would have a material effect on the developer's ability to perform its obligations.

(13) Any current or expected fees or charges to be paid by time-share purchasers for the use of any amenities related to the time-share plan.

(14) A description and amount of insurance coverage provided for the protection of the purchaser.

(15) The extent to which a time-share interest may become subject to a tax lien or other lien arising out of claims against purchasers of different time-share interests.

(16) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time-share interest.

(17) A statement disclosing that a deposit made in connection with the purchase of a time-share interest shall be held by an escrow agent until expiration of any right to cancel the contract and that a deposit shall be returned to the purchaser if he or she elects to exercise his or her right of cancellation. Alternatively, if the commissioner has accepted from the developer a surety bond, irrevocable letter of credit, or other financial assurance, each of which shall be enforceable by the association, in lieu of placing deposits in an escrow account: (A) a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other financial assurance in an amount equal to or in excess of the funds that would otherwise be placed in an escrow account, (B) a description of the type of financial assurance that has been obtained, (C) a statement that if the purchaser elects to exercise his or her right of cancellation as provided in the contract, the developer shall return the deposit, and (D) a description of the person or entity to whom the purchaser should apply for payment.

(18) A statement that the assessments collected from the purchasers will be kept in a segregated account separate from the assessments collected from the purchasers of other time-share plans managed by the same managing entity, along with a statement identifying the location of the account and a disclosure of the rights of owners to inspect the records pertaining to their accounts.

(19) If the time-share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program.

(20) Any other information that the developer, with the approval of the commissioner, desires to include in the public report.

(21) Any other information reasonably requested by the commissioner.

(b) Public reports for specific time-share interest multisite time-share plans shall include the following additional disclosures:

(1) A description of each component site, including the name and address of each component site.

(2) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to each component site of the time-share plan, committed to the multisite time-share plan and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(3) Each type of accommodation in terms of the number of bedrooms, bathrooms, and sleeping capacity, and a statement of whether or not the accommodation contains a full kitchen. For purposes of this description, a "full kitchen" means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

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

(5) A description of the reservation system, which shall include 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 and regulations governing access to and use of the reservation system.

(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.

(6) The name and principal address of the managing entity for the multisite time-share 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.

(7) 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 multisite time-share plan.

(8) A description of the purchaser's liability for any fees associated with the multisite time-share plan.

(9) The location of each component site of the multisite time-share plan, the historical occupancy of each component site for the prior 12-month period, if the component site was part of the multisite time-share plan during the 12-month time period, 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 that time within the multisite time-share plan.

(10) Any other information that the developer, with the approval of the commissioner, desires to include in the time-share disclosure statement.

(c) Public reports for nonspecific time-share interest multisite time-share plans shall include the following:

(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 time-share 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) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to the multisite time-share plan for each component site committed to the multisite time-share plan and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(8) Each type of accommodation in terms of the number of bedrooms, bathrooms, and sleeping capacity, and a statement of whether or not the accommodation contains a full kitchen. For purposes of this description, a "full kitchen" means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

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

(10) A description of any incomplete amenities at any of the component sites along with a statement as to any assurance for completion and the estimated date the amenities will be available.

(11) The location of each component site of the multisite time-share plan, the historical occupancy of each component site for the prior 12-month period, if the component site was part of the multisite time-share plan during such 12-month time period, 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 that time within the multisite time-share plan.

(12) 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 multisite time-share plan.

(13) 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 and regulations governing access to and use of the reservation system.

(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.

(14) A description of any liens, defects, or encumbrances that materially affect the purchaser's use rights.

(15) The name and principal address of the managing entity for the multisite time-share 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 a multisite time-share plan managing entity and the managing entity of the component sites of a multisite time-share plan, if different from the multisite time-share plan managing entity.

(16) The current annual budget as provided in Section 11240, along with the projected assessments and a description of the method for calculating and apportioning the assessments among purchasers, all of which shall be attached as an exhibit to the public report.

(17) Any current fees or charges to be paid by time-share purchasers for the use of any amenities related to the time-share plan and a statement that the fees or charges are subject to change.

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

(19) A description of any financing offered by or available through the developer.

(20) A description of any bankruptcies, pending civil or criminal suits, adjudications, or disciplinary actions of which the developer has knowledge, which would have a material effect on the developer's ability to perform its obligations.

(21) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time-share interest.

(22) A statement disclosing that a deposit made in connection with the purchase of a time-share interest shall be held by an escrow agent until expiration of any right to cancel the contract and that a deposit shall be returned to the purchaser if he or she elects to exercise his or her right of cancellation. Alternatively, if the commissioner has accepted from the developer a surety bond, irrevocable letter of credit, or other financial assurance in lieu of placing deposits in an escrow account: (A) a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other financial assurance in an amount equal to or in excess of the funds that would otherwise be placed in an escrow account, (B) a description of the type of financial assurance that has been arranged, (C) a statement that if the purchaser elects to exercise his or her right of cancellation as provided in the contract, the developer shall return the deposit, and (D) a description of the person or entity to whom the purchaser should apply for payment.

(23) If the time-share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program.

(24) Any other information that the developer, with the approval of the commissioner, desires to include in the time-share disclosure statement.

(d) The commissioner may establish by regulation provisions regarding the delivery of the public report and other required information through alternative media forms.

(e) The commissioner may, upon finding that the subject matter is otherwise adequately covered or the information is unnecessary or inapplicable, waive any requirement set forth in this section.

*(Amended by Stats. 2015, Ch. 88, Sec. 2. (AB 905) Effective January 1, 2016.)*

**11235.** (a) A person who has entered into a contract to purchase a short-term product shall have the right to rescind the contract until midnight of the seventh calendar day, or a later time as provided in the contract, following the day on which the contract is first made, in which event the purchaser shall be entitled to a refund of 100 percent of the consideration paid under the contract, without deduction.

(b) The developer or other person who offers a short-term product shall clearly and conspicuously disclose, in writing, to all purchasers of a short-term product, all of the following:

(1) The right of rescission provided for in subdivision (a).

(2) That reservations for accommodations under the contract are subject to availability and that there is no guarantee that a purchaser will be able to obtain specific accommodations during a specific time period, if applicable.

(3) Specific blackout dates, if applicable.

(4) That the earlier the purchaser requests a reservation, the greater the opportunity to receive a confirmed reservation.

(5) That, if the purchaser later purchases a time-share interest, the developer shall provide the purchaser with the then-current public report for the time-share plan being purchased and that the purchaser shall have until midnight of the seventh calendar day following receipt of the public report to cancel the purchase of the time-share interest.

(c) If a purchaser is unable to obtain a confirmed reservation for a specific accommodation and time period requested, the developer or other person who offers the short-term product shall attempt to provide the purchaser with a substantially similar alternative to the reservation requested. If the developer or other person who offers the short-term product is unable to provide the reservation

requested or an acceptable alternative during the initial term of the contract, the purchaser may request and be granted an extension of the contract for a period of 12 months.

(d) The contract for the purchase of a short-term product shall include the date of the contract and shall contain, in immediate proximity to the space reserved for the signature of the purchaser, a conspicuous statement as follows:

"YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE SEVENTH (7TH) [or later] CALENDAR DAY AFTER THE DATE OF THIS CONTRACT AND RECEIVE A FULL REFUND. YOU MAY EXERCISE YOUR RIGHT TO CANCEL BY SENDING A FACSIMILE, OR BY DEPOSIT, FIRST-CLASS POSTAGE PREPAID, INTO THE UNITED STATES MAIL TO THE FOLLOWING ADDRESS: (SPECIFIC CONTACT INFORMATION)"

(e) A purchaser of a short-term product may exercise the right of rescission by giving written notice to the owner of the short-term product as specified in subdivision (b), using a preprinted form provided by the developer. The developer or other person who offers the short-term product shall cause any deposit given by a purchaser who has exercised the right to rescind described in subdivision (a) to be returned to the purchaser not later than the last to occur of 10 business days following receipt of the purchaser's written notice of rescission, or 10 business days following the date upon which any deposit becomes good and immediately available funds.

(f) A developer or other person who offers a short-term product shall do one of the following:

- (1) Place any purchase money funds received from the purchaser of a short-term product into an independent escrow depository until the seven-day period for rescission described in subdivision (a) has expired.
- (2) Post a bond to secure the return of a purchaser's purchase money funds in a form and in an amount prescribed by the commissioner.
- (3) Make alternative arrangements satisfactory to the commissioner to secure the owner's obligation to return the purchase money funds.

(g) If applicable, the developer shall disclose to the purchaser the type of alternative arrangement to be used and, in the event of a claim, to whom the purchaser should apply for payment under the alternative arrangement.

(h) The developer shall compensate the association for any services acquired from the association or for any of the association's property used when fulfilling a short-term product in excess of services or use of property provided to other owners.

(i) If the contract for a short-term product is negotiated primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, the developer shall provide to the prospective purchaser prior to the commencement of the rescission period an unexecuted translation of the contract in the language in which the contract was negotiated. The terms of the short-term contract that is executed in the English language shall determine the rights and obligations of the parties.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11236.** (a) A receipt on the form specified herein shall be taken by or on behalf of the developer from each person executing a reservation agreement under authority of a preliminary public report and each person who has made a written offer to purchase or lease a time-share interest under authority of a preliminary, conditional, or final public report.

(b) The developer or his or her agent shall retain each receipt for a final public report for a period of three years from the date of the receipt and shall make the receipts available for inspection by the commissioner or his or her designated representative during regular business hours.

(c) The form approved by the commissioner for the acknowledgment of receipt of a preliminary, conditional, or final public report shall be as follows:

#### "RECEIPT FOR PUBLIC REPORT

The Law and Regulations of the commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this time-share before you execute a contract to purchase or lease a time-share interest or before any money or other consideration toward purchase or lease of a time-share interest is accepted from you.

You must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

I have read the commissioner's public report on \_\_\_\_ (File No., Tract No., or Name). I understand the report is not a recommendation or endorsement of the time-share, but is for information only. The date of the public report which I received and read is \_\_\_\_.

Developer Is Required to Retain This Receipt for Three Years.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11237.** (a) If a purchaser of a time-share interest in a time-share plan is offered the opportunity to acquire an incidental benefit in connection with the sale of a time-share interest, the developer shall provide the purchaser with a disclosure statement containing all of the following information:

- (1) A general description of the incidental benefit, including the terms and conditions governing the use of the incidental benefit.
- (2) A statement that the continued availability of the incidental benefit is not necessary for the use and enjoyment of the purchaser's use of any accommodation of the time-share plan.
- (3) A statement that the purchaser's use of or participation in the incidental benefit is completely voluntary, and payment of any fee or other cost associated with the incidental benefit is required only upon that use or participation.
- (4) A listing of the fees, if any, that the purchaser will be required to pay to use the incidental benefit.
- (5) A statement that no costs of acquisition, operation, maintenance, or repair of the incidental benefit shall be passed on to purchasers of time-share interests in the time-share plan as a common expense of the time-share plan.

(b) A developer shall include in its initial application for registration, a description of any incidental benefits which may be used by the developer. The developer may, but shall not be required to describe the incidental benefits in the public report for the time-share plan.

(c) The incidental benefit disclosure is not required to be filed with the commissioner prior to the use of the disclosure. However, the commissioner may request and review the records of the developer to ensure that the incidental benefit disclosure required by this section has been given to purchasers and to ensure that the statements required to be made in the disclosure are accurate as to the operation of each incidental benefit offered by the developer. The developer shall deliver the records to the commissioner within 10 business days of the commissioner's request.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11238.** (a) The purchase contract entered into by any person who has made an offer to purchase a time-share interest or interests, any incidental benefit, made on the same day or within seven calendar days after the person attended a sales presentation for a time-share interest, or any right under an exchange program, made on the same day or within seven calendar days after the person attended a sales presentation for a time-share interest, shall be voidable by the purchaser, without penalty, within seven calendar days, or a longer period as provided in the contract, after the receipt of the public report or the execution of the purchase contract, whichever is later.

(1) The purchase contract for the time-share interest 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.

(2) Notice of cancellation shall be deemed timely if given not later than midnight of the seventh calendar day.

(b) A person who has made an offer to purchase a time-share interest, incidental benefit, or rights under an exchange program as described above may exercise the right of cancellation granted by this section by giving written notification of the notice to cancel to the developer at the place of business designated by the developer in the purchase contract.

(c) If the notice of cancellation is by United States mail, a rebuttable presumption shall exist that notice was given on the date that it is postmarked. If the notice is sent by facsimile, it shall be considered given on the date of a confirmed transmission. If the notice is by means of a writing sent other than by United States mail or telegraph, it shall be considered as given at the time of delivery at the place of business designated by the developer. Exercising the rescission rights of the time-share interest shall also automatically rescind any agreement for the purchase of an incidental benefit or an enrollment into an exchange program where the agreements were entered into in conjunction with the purchase of the time-share interest.

(d) Each developer shall utilize and furnish each purchaser with a fully completed and executed copy of a contract pertaining to the sale of a time-share interest, which contract shall include the following information:

(1) The actual date the contract is executed by each party.

(2) The names and addresses of the developer and time-share plan.

(3) The initial purchase price and any additional recurring or nonrecurring charges, or a good faith estimate if the amount of those charges cannot then be determined, that the purchaser will be required to pay in connection with the purchase of the time-share interest, including, but not limited to, the current year's annual assessment for common expenses and financing charges.

- (4) The estimated date of completion of construction of each accommodation promised to be completed which is not completed at the time the contract is executed.
- (5) A brief description of the nature and duration of the time-share interest being sold, including whether any interest in real property is being conveyed.
- (6) The specific number of years of the term of the time-share plan.
- (7) Immediately prior to the space reserved in the contract for the signature of the purchaser, the developer shall disclose, in conspicuous type, substantially the following notice of cancellation:

You may cancel this contract without any penalty or obligation within seven calendar days of receipt of the public report or after the date you sign this contract, whichever date is later. If you decide to cancel this contract, you must notify the developer in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to (name of developer) at (address of developer). Your notice of cancellation may also be sent by facsimile to (facsimile number of the developer) or by hand-delivery. Any attempt to obtain a waiver of your cancellation right is void and of no effect.

- (8) The purchase contract for an interest in a single site or specific time-share interest multisite time-share plan without an accommodation in this state shall include the following additional disclosure in conspicuous type:

The accommodations of this time-share plan are located outside of California. As such, the management (including all matters relating to the association, the association budget, and any management contract) of this time-share plan is not governed by California law, but by the applicable law, if any, of the jurisdiction in which the accommodations are located as stated in the public report. You should review the governing documents related to the association, the association's budget, and the management of the time-share plan.

- (e) If rescission is sought by the purchaser in accordance with this section, and a court finds the developer denied the rescission in violation of this section, the court may also award reasonable attorneys' fees and costs to the prevailing purchaser.

*(Amended by Stats. 2006, Ch. 429, Sec. 4. Effective September 22, 2006. Operative January 1, 2007, by Sec. 12 of Ch. 429.)*

**11239.** (a) To inform a purchaser of his or her right of cancellation under Section 11238, the developer shall attach to the face page of every copy of a public report given to a prospective purchaser, the cancellation notice set forth in subdivision (b) thereof printed in conspicuous type.

- (b) The form and content of the notice shall be as follows:

#### NOTICE OF CANCELLATION RIGHTS

You may cancel the purchase of the time-share interest(s) in the time-share plan identified below without any penalty or obligation and are legally entitled to the return of all money and other considerations that you have given toward the purchase. If you decide to cancel your purchase, you must notify the developer in writing of your intent to cancel within seven calendar days of receipt of the public report or the date you sign the purchase contract, whichever date is later. Your notice of cancellation shall be effective upon the date sent and shall be sent to the developer at the address or facsimile number provided in your purchase contract. Any attempt to obtain a waiver of your cancellation right is void and of no effect.

- (c) Each notice shall also contain the following form. The form shall have all developer-related information completed by the developer and may be used by a purchaser to cancel the sale of the time-share interest:

(Name of Developer) (Address of Developer)

(Facsimile Number of Developer)

(Name of Time-share Plan)

(DRE Registration File Number)

RE: ELECTION TO CANCEL THE SALE OF A TIME-SHARE INTEREST(S)

I hereby elect to cancel my purchase of the time-share interest(s) in the above-name time-share plan.

	_____
(Date)	_____
(Signature)	(Print Name)
(Signature)	(Print Name)

**11240.** An estimated operating budget for the time-share plan shall be filed with the commissioner along with the other information required to be registered pursuant to this chapter, and shall contain the following information:

(a) The estimated annual expenses of the time-share plan along with the estimated revenue of the association from all sources, including the amounts collectible from purchasers as assessments. The estimated payments by the purchaser for assessments shall also be stated in the estimated amounts for the times when they will be due. Expenses shall be shown in a manner that enables the purchaser to calculate the annual expenses associated with the time-share interest being purchased. Expenses that are personal to purchasers that are not uniformly incurred by all purchasers or that are not provided for or contemplated by the time-share plan documents may be excluded from this estimate.

(b) (1) The estimated items of expenses of the time-share plan and the association, except as excluded under subdivision (a), including, but not limited to, if applicable, the following items, that shall be stated either as association expenses collectible by assessments or as expenses of the purchaser payable to persons other than the association:

(2) Expenses for the association:

(A) Administration of the association.

(B) Management fees.

(C) Maintenance.

(D) Rent for accommodations.

(E) Taxes upon time-share property.

(F) Taxes upon leased areas.

(G) Insurance.

(H) Security provisions.

(I) Other expenses.

(J) Operating capital.

(K) Equitable apportionment of expenses between time-share and non-time-share uses of the common area, if applicable.

(L) Reserves for deferred maintenance and reserves for capital expenditures. All reserves for any accommodations and common areas of a time-share plan located in this state shall be based upon the estimated life and replacement cost of accommodations and common elements of the time-share plan. For any accommodations and common elements of a time-share plan located outside of this state, the developer shall disclose the amount of reserves for deferred maintenance and capital expenditures required by the law of the situs state, if applicable, and maintained for those accommodations and common elements, which amount of reserves shall be based on the estimated life and replacement cost of each reserve item. The developer or the association shall include in the budget a reasonable reserve accumulation plan. A plan that (i) provides for reserves to be funded within five years at a level of 50 percent of the amount specified in the reserve study as fully funded, and (ii) requires those reserves collected in any given year to equal or exceed the amount of reserve expenditures estimated for that year shall be deemed to be a reasonable reserve accumulation plan. The funding of reserves may be based on collection of reserve amounts in conjunction with annual assessments, or on some alternative mechanism, including, but not limited to, a bond, letter of credit, or similar mechanism. Collection of required reserve amounts solely by one or more special assessments is not reasonable. If control of the association is in owners other than the developer, and such owners vote not to maintain reserves or to maintain reserves at less than 50 percent, the failure to maintain the required level of reserves shall not be cause for denying the developer a public report.

(c) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time that purchasers elect a majority of the board of administration and the period after that date.

(d) The budget of a phase time-share plan shall contain a note identifying the number of time-share interests covered by the budget, indicating the number of time-share interests, if any, estimated to be declared as part of the time-share plan during that calendar

year, and projecting the common expenses for the time-share plan based upon the number of time-share interests estimated to be declared as part of the time-share plan during that calendar year.

(e) For single site time-share plans and component sites of a multisite time-share plan located outside of the state, the budget shall include the subject matter set forth in subdivisions (a) to (d), inclusive. The budget shall be in compliance with the applicable laws of the state or jurisdiction in which the time-share property or component site is located, and if there is a conflict between the affirmative standards set forth in the laws of the situs state and the requirements set forth in this section, the law of the situs state shall control. If the budget provides for the matters contained in subdivisions (a) to (d), inclusive, the budget shall be deemed to be in compliance with the requirements of this section, and the developer shall not be required to make revisions in order to comply with this section.

(f) The budget shall include a certification subscribed and sworn by an expert in the preparation of time-share plan budgets, who may be (1) an independent public accountant, (2) a certified public accountant, who is an employee of the developer, or (3) at the discretion of the commissioner, an individual or entity acceptable to the commissioner to conduct the review. Acceptance of the individual or entity shall not be considered an endorsement by the commissioner of a proposed budget. The budget certification shall also be signed by the developer or on behalf of the developer by an appropriate officer, if the developer is a corporation, or the managing member, if the developer is a limited liability company. The certification concerning the adequacy of the budget shall be in the following form:

On behalf of the developer of the captioned time-share plan, I/my firm has reviewed or prepared the budget containing projections of income and expenses for time-share operation. My/our experience in this field includes: [List experience.]

I/we have reviewed the budget and investigated the facts set forth in the budget and the facts underlying it with due diligence in order to form a basis for this certification.

I/we certify that the projections in the budget appear reasonable and adequate based on present prices (adjusted to reflect continued inflation and present levels of consumption for comparable units similarly situated) or, for an existing project, based on historical data for the project.

I/we certify that the budget:

- (1) Sets forth in detail the terms of the transaction as it relates to the budget and is complete, current, and accurate.
- (2) Affords potential purchasers an adequate basis upon which to found their judgment.
- (3) Does not omit any material fact.
- (4) Does not contain any untrue statement of a material fact.
- (5) Does not contain any fraud, deception, concealment, or suppression.
- (6) Does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances.
- (7) Does not contain any representation or statement which is false, where I/we:
  - (A) Knew the truth.
  - (B) With reasonable effort could have known the truth and made no reasonable effort to ascertain the truth.
  - (C) Did not have knowledge concerning the representation or statement made.

I/we understand that a copy of this certification is intended to be incorporated into the public report so that prospective purchasers may rely on it.

This certification is made under the penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the laws of California.

The certification shall be dated within 90 days prior to the date of the submission of the budget to the commissioner. The expert's certification shall be based on experience in the management of hotel, resort, or time-share properties and disclose the approximate number of properties managed and length of time managed, together with other relevant real estate experience, qualifications, and licenses.

(g) Any budget that is not certified by an independent certified public accountant or an employee of the developer who is licensed as a certified public accountant may be reviewed by the commissioner to confirm the accuracy of the certification.

(h) The certified budget for the time-share plan shall be prepared and submitted by the developer to the commissioner annually for as long as the registration is in effect. If the budget is increased more than 20 percent in any year, the developer shall submit to the commissioner, along with the increased budget, evidence that the requirements of paragraph (5) of subdivision (a) of Section 11265 have been met. The budget shall be submitted at least 15 days prior to the first day of the period that it covers. Upon the submission of each annual budget, the exhibit to the public report specified in paragraph (8) of subdivision (a) of, and paragraph (16) of subdivision (c) of, Section 11234 shall be updated. The updating of the exhibit shall not be considered to constitute an amendment of the public report.



(i) The audited financial statements of the association prepared pursuant to paragraph (2) of subdivision (b) of Section 11272 shall be delivered to the commissioner upon request.

(j) At the time an application is submitted for renewal of the public report or any amendment of the public report that affects the budget for the time-share plan, the developer shall submit with the application a copy of the most recent audited financial statement for the time-share plan, along with a certified copy of the budget reflecting the amendment or renewal. If the commissioner, upon reasonable comparison of the budget and the prior year's audited financial statements, determines that the budget is deficient, the commissioner may subject the budget to a substantive review.

*(Amended by Stats. 2006, Ch. 429, Sec. 5. Effective September 22, 2006. Operative January 1, 2007, by Sec. 12 of Ch. 429.)*

**11241.** (a) The developer is obligated for the expenses associated with unsold inventory held by the developer. The obligation can be fulfilled in either of the following ways:

(1) The developer shall pay the full maintenance fee for each of the interests owned by the developer.

(2) The developer shall enter into a subsidy agreement with the association to cover any shortfall between expenses incurred and assessments collected from other owners ("deficit subsidy"), and shall furnish the association with an executed copy of the agreement within 10 days after closing of escrow of the first sale or lease of a time-share interest. The department will not approve a deficit subsidy program unless provisions are made for the accumulation of reserves for replacement and major maintenance of the time-share property in accordance with accepted property management practices and the transfer of the reserve fund to the association on termination of the program.

(b) To ensure the fulfillment of the obligations of the developer of a time-share plan to either pay assessments as an owner of time-share interests in the time-share plan or to pay a deficit subsidy, the commissioner shall require that the developer furnish a surety bond, cash deposit, letter of credit, or other alternate assurance enforceable by the association and acceptable to the commissioner, and that assurance shall be in compliance with either paragraph (1) or (2) of subdivision (c).

(c) The amount of the assurance shall be in such an amount as may be approved by the commissioner, but shall not exceed the lesser of 50 percent of the anticipated cost of operation and maintenance of the time-share plan, including the establishment of reserves for replacement and major repair, for an operational period of one year or 100 percent of the assessments attributed to the total amount of the total unsold time-share interests owned by the developer and registered pursuant to this chapter. The security shall be delivered to a neutral escrow depository, or to the trustee if title to the time-share property has been delivered to the trustee, along with instructions signed by the developer for the benefit of the association which shall provide as follows:

(1) If the developer pays full maintenance fees on unsold inventory the security shall remain available to pay any assessments for which the developer is liable and delinquent until the depository or trustee has received both of the following:

(A) Written notice, from the developer that sales of 80 percent of the time-share interest in the time-share plan have been closed.

(B) Written notice from the association that the developer is not delinquent in the payment of assessments for which it is obligated.

(2) The amount of the assurance required by this section may be adjusted annually to an amount approved by the commissioner, but shall be not more than the smaller of 50 percent of the anticipated cost of operation and maintenance of the time-share plan, including the establishment of reserves for replacement and major repair, for an operational period of one year or 100 percent of the assessments attributed to the total amount of the total unsold time-share interests owned by the developer and registered pursuant to this chapter.

(d) A deficit subsidy agreement entered into after July 1, 2005, shall provide that if there is a dispute between the developer and the association with respect to the question of satisfaction of the conditions for exoneration or release of the security, the issue shall, at the request of either party, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or another third-party arbitration organization selected by the parties and in accordance with Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Any fee to initiate the arbitration shall be remitted by the developer. The cost of arbitration shall ultimately be borne as determined by the arbitrator under these rules.

*(Amended by Stats. 2019, Ch. 153, Sec. 1. (SB 578) Effective January 1, 2020.)*

**11242.** (a) In any time-share plan, the developer may undertake to pay a portion of the assessments otherwise payable by each purchaser ("buy down subsidy"). Any developer undertaking to pay a buy down subsidy shall do both of the following:

(1) Enter into a contract with the association that specifies in detail the obligations of the developer and the methods to be used in valuing the goods and services furnished under the time-share plan.

(2) Furnish the association with an executed copy of the subsidization contract within 10 days after closing of escrow of the first sale or lease of a time-share interest.

(b) If the developer is paying a buy down subsidy, the developer shall provide an assurance for its buy down subsidy obligation in an amount acceptable to the commissioner, but not more than the aggregate amount by which annual assessments are to be reduced, for example, the number of interests to be sold in each unit type multiplied by the amount by which the annual assessment for such unit type is to be reduced, multiplied by the number of years in the term of the buy down subsidy.

(c) For any buy down subsidy agreements entered into after July 1, 2005, the subsidy agreements shall provide that if there is a dispute between the developer and the association with respect to the question of satisfaction of the conditions for exoneration or release of the security, the issue shall, at the request of either party, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or another third-party arbitration organization selected by the parties and in accordance with Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Any fee to initiate the arbitration shall be remitted by the developer. The cost of arbitration shall ultimately be borne as determined by the arbitrator under those rules.

*(Amended by Stats. 2019, Ch. 153, Sec. 2. (SB 578) Effective January 1, 2020.)*

**11242.1.** (a) The assurance specified in Section 11241 and, if applicable, the assurance specified in Section 11242, shall be delivered to the trustee or an escrow depository acceptable to the department along with an executed copy of the subsidization contract and instructions to the escrow depository signed by the developer and on behalf of the association. The instructions shall provide for both of the following:

(1) The escrow agent shall not release or exonerate the security device until it has received written notice from the association that the developer has faithfully performed all of the developer's obligations under the subsidization contract, if applicable, and the escrow agent has received the written notices specified in paragraph (1) of subdivision (c) of Section 11241.

(2) If there is a dispute between the developer and the association with respect to the questions of satisfaction of the conditions for exoneration or release of the security, the issue or issues shall, at the request of either party, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or another third-party arbitration organization selected by the parties and in accordance with Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(b) Any fee to initiate arbitration shall be submitted by the developer. The costs of arbitration shall be borne by the party as determined by the arbitrator.

(c) The agreement for the deficit subsidy, described in subdivision (a) of Section 11241, and the agreement for the buy down subsidy, described in subdivision (a) of Section 11242 may, at the option of the developer, be contained in one instrument.

*(Amended by Stats. 2019, Ch. 153, Sec. 3. (SB 578) Effective January 1, 2020.)*

**11243.** The developer shall comply with the following escrow requirements:

(a) A developer of a time-share plan shall deposit into an escrow account in an acceptable escrow depository 100 percent of all funds that are received during the purchaser's rescission period. An acceptable escrow depository includes, when qualified to do business in this state, escrow agents licensed by the Commissioner of Financial Protection and Innovation, banks, trust companies, savings and loan associations, title insurers, and underwritten title companies. The deposit of these funds shall be evidenced by an executed escrow agreement between the escrow agent and the developer that shall include provisions that state the following:

(1) Funds may be disbursed to the developer by the escrow agent from the escrow account only after expiration of the purchaser's rescission period and in accordance with the purchase contract, subject to subdivision (b).

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

(b) If a developer contracts to sell a time-share interest and the construction of any property in which the time-share interest is located has not been completed, the developer, upon expiration of the rescission period, shall continue to maintain in an escrow account all funds received by or on behalf of the developer from the prospective purchaser under the purchase contract. The commissioner shall establish, by regulation, the types 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 an inspection by the State Fire Marshal designee or an equivalent public safety inspection agency in the applicable jurisdiction. Unless the developer submits financial assurances, in accordance with subdivision (c), funds shall not be released from escrow until a certificate of occupancy, or its equivalent, has been obtained and the rescission period has passed, and the time-share interest can be transferred free and clear of blanket encumbrances, including mechanics' liens. Funds to be released from escrow shall be released as follows:

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

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

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

(c) In lieu of the provisions in subdivisions (a) and (b), the commissioner may accept from the developer a surety bond, escrow bond, irrevocable letter of credit, or other financial assurance or arrangement acceptable to the commissioner. Any acceptable financial assurance shall be in an amount equal to or in excess of the lesser of (1) the funds that would otherwise be placed in escrow, or (2) in an amount equal to the cost to complete the incomplete property in which the time-share 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 subdivision (a).

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

(1) Receipt of written direction agreed to by signature of all parties.

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

*(Amended by Stats. 2022, Ch. 452, Sec. 14. (SB 1498) Effective January 1, 2023.)*

**11244.** (a) Excluding any encumbrance placed against the purchaser's time-share 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 under Section 11243 with respect to each time-share interest and any other property or rights to property appurtenant to the time-share interest, including any amenities represented to the purchaser as being part of the time-share plan, until the developer has provided satisfactory evidence to the commissioner of one of the following:

(1) The time-share interest, including, but not limited to, a time-share interest in any component sites of a nonspecific time-share interest multisite time-share plan, together with any other property or rights to property appurtenant to the time-share interest, including any amenities represented to the purchaser as being part of the time-share 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 time-share interest or appurtenant property or property rights.

(2) 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 time-share interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the time-share plan, has recorded a subordination and notice to creditors document in the appropriate public records of the jurisdiction in which the time-share 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 time-share interests in the time-share plan regardless of the date of purchase, from and after the effective date of the subordination document.

(3) 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 time-share interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the time-share plan, has transferred the subject accommodations, amenities, or all use rights in the amenities to a nonprofit organization or owners' association to be held for the use and benefit of the owners of the time-share plan, which shall act as a fiduciary to the purchasers, the developer has transferred control of the entity to the owners or does not exercise its voting rights in the 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 paragraph (2).

(4) Alternative arrangements have been made which are adequate to protect the rights of the purchasers of the time-share interests and approved by the commissioner.

(b) Nothing in this section shall prevent a developer from accessing any escrow funds if the developer has complied with subdivision (c) of Section 11243.

(c) The developer shall notify the commissioner of the extent to which an accommodation may become subject to a tax or other lien arising out of claims against other purchasers in the same time-share plan. The commissioner may require the developer to notify a prospective purchaser of any such potential tax or lien that would materially and adversely affect the prospective purchaser.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11245.** (a) No person subject to this chapter shall do any of the following:

(1) Make any material misrepresentation that is false or misleading in connection with any advertisement or promotion of a time-share plan.

(2) Make a prediction of any increases in the resale price or resale value of the time-share interest.

(3) Materially misrepresent the size, nature, extent, qualities, or characteristics of the offered time-share plan.

(4) Materially misrepresent the conditions under which a purchaser may exchange the right to use accommodations in one location for the right to use accommodations in another location.

(5) Materially misrepresent the current or future availability of a resale or rental program offered by or on behalf of the developer.

(6) Materially misrepresent the nature or extent of any incidental benefit.

(7) Fail to deliver any item offered in connection with a promotion to a prospective purchaser upon the conclusion of the sales presentation, or fail to deliver any item offered in connection with a promotion to a prospective purchaser, upon request, reasonably approximate to the conclusion of the length of time for the sales presentation that was previously represented to the prospective purchaser.

(8) Fail to disclose, in a manner that meets the requirements of Section 17537.1 or 17537.2 of the Business and Professions Code, that a certificate, coupon, or raincheck redeemable for fulfillment for goods or services will be provided in connection with a promotion for the purchase of a time-share interest, if that is the case.

(9) State that the purchase of a time-share interest constitutes a financial investment.

(10) Fail to clearly and conspicuously disclose, prior to the execution of any purchase contract, the annual maintenance and association dues or any separately billed taxes, when applicable.

(11) Fail to clearly disclose in writing any automatic charging or billing procedure, and fail thereafter to obtain the express written authorization from the prospective purchaser for any purchase, subscription, or enrollment that results in that automatic charging or billing of initial or periodic amounts to the prospective purchaser.

(12) If the contract for a time-share interest is negotiated primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, and the developer fails to provide to the prospective purchaser prior to the commencement of the rescission period an unexecuted translation of the contract in the language in which the contract was negotiated.

(13) Fail to inform, verbally or in writing, any prospective purchaser that he or she can take as much time as he or she requires in order to read the public report, and any and all other documents necessary to consummate a sale before leaving the premises or signing a contract, and not allowing, upon request, the prospective purchaser the time and opportunity to do so. If the prospective purchaser requests that he or she be able to return the next calendar day to complete the review of the documents before signing, the developer shall accommodate such a request, and the return visit shall not disqualify the prospective purchaser from receiving any price reduction or other incentive for purchasing on the day of the scheduled sales presentation. Further, it shall not be fraudulent or misleading for a developer to honor the request even if presented as an incentive only available on the day of the offer.

(14) Inform prospective purchasers that they are finalists in winning an item offered in connection with a promotion or have already won a specific prize, unless it is true.

(15) Offer as a promotional incentive any travel certificate or coupon redeemable for transportation, accommodations, or other travel-related service that does not allow the recipient to activate or redeem the incentive without incurring any additional

telephone expenses charged by or on behalf of the developer other than the usual toll costs imposed by the prospective purchaser's telephone service.

(16) Offer as a promotional incentive any travel certificate or coupon redeemable for fixed air transportation or hotel accommodations or other travel-related service that entitles the prospective purchaser to a trip of a specified duration unless the offeror states at the time of the offer that there are terms or conditions that must be followed in order to utilize the incentive and that the details of the terms will be sent to the consumer in writing in time to be received by the consumer prior to leaving his or her house to attend the scheduled sales presentation. The writing shall include the approximate times of the air or sea transportation's departure and return, if applicable, and all other material conditions, including any limitations as to the dates or times available for use of the incentive.

(17) Misrepresent or fail to disclose that a prospective purchaser is required to attend a sales presentation to obtain a prize or promotional item, if attendance is a requirement of the promotion.

(18) Fail to inform any prospective purchaser who contacts the developer with a request to cancel a purchase within the rescission period provided by this chapter all of the procedures necessary to effectively cancel the purchase.

(19) Fail to cancel a purchase upon the receipt of a valid timely written notice of rescission. No person may obtain from the person a waiver or cancellation of the rescission.

(20) Fail to provide any refund of moneys, within the required timeframe, due to the prospective purchaser upon receipt of a valid timely written notice of rescission.

(21) Fail to provide a mechanism for an equitable apportionment of expenses between the time-share owner's association and any commercial operation on the property not operated by the time-share owner's association.

(b) For any time-share plan in which the managing entity is an affiliate of the developer, neither the developer nor the managing entity shall, during any applicable priority reservation period, hold out for rental to the public on a given day, developer owned or controlled time-share periods in a number greater than the total number of time-share periods owned or controlled by the developer in a particular season, multiplied by a fraction wherein the numerator is the number of time-share periods owned or controlled by the developer in that particular season, and the denominator is the total number of time-share periods in that particular season. For example, if the developer owns or controls 1,000 time-share periods in a particular season, out of a total of 4,000 time-share periods available during that season, then the developer may not hold out for rental to the public during any applicable priority reservation period, more than 250 time-share periods on a given day during that season ( $1,000 \times 1,000/4,000=250$ ). The number of time-share interests permitted to be rented under this subdivision shall be in addition to any time-share interests that the developer may have the right to rent or use by virtue of having acquired those rights from another owner. The developer or managing entity may, at any time, rent any inventory transferred to the developer or managing entity by another owner in exchange for hotel accommodations, future use rights, or other considerations. For any use or rental by a developer of time-share interests owned or controlled by the developer, the developer shall reimburse the association for any increased expenses for housekeeping services that exceed the amount allocated in the assessment for maintenance for the use or rental.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*

**11246.** With each application for an amendment or renewal of a public report, and with the initial submittal of an application for a time-share plan in which sales have occurred prior to obtaining a California public report, the developer shall submit to the commissioner a certification by an independent third party acceptable to the commissioner and dated not more than three months prior to the submittal of the application, stating that the inventory control system, described in paragraph (6) of subdivision (c) of Section 11226 functions in accordance with the description set forth in that section. The certification shall be based on a random sampling of transactions performed within the six months preceding the date of the application. Inventory control systems that cover time-share estates for which the developer offers, and the title insurance company agrees to provide title insurance, shall not require certification. Independent title insurance companies licensed to do business as such in this state and independent certified public accountants shall be deemed acceptable third parties in accordance with this section.

*(Added by Stats. 2004, Ch. 697, Sec. 14. Effective January 1, 2005. Section operative July 1, 2005, pursuant to Section 11288.)*