

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/CS/HB 1001 — Timeshares

by Economic Affairs Committee; Judiciary Committee; Business and Consumer Affairs Subcommittee; and Rep. Eisnaugle and others (CS/CS/SB 1408 by Budget Subcommittee on General Government Appropriations; Regulated Industries Committee; and Senator Gardiner)

The bill requires the full and fair disclosure of terms, conditions, and services offered by timeshare resale service providers, which includes brokers and advertisers who offer unsolicited telemarketing, direct mail, or e-mail in connection with the offering of resale brokerage services or resale advertising services to consumer owners of timeshares who wish to sell their interest in a timeshare. It provides exceptions for sales by consumers and licensed real estate brokers.

The bill specifies the information that resale service providers must provide to the consumer timeshare resellers before engaging in resale brokerage services or resale advertising services, including a description of any fees or costs; a description of when such fees or costs are due; and the ratio or percentage of the number of timeshare resale interests sold or rented versus the number of timeshare resale interests listed for sale or rent by the timeshare resale broker for each of the previous two calendar years. Resale service providers may not engage in those activities of a real estate broker unless they are a licensed real estate broker.

The bill prohibits timeshare resale service providers from:

- Representing that they will provide any type of direct sales or resale brokerage services;
- Representing that another person has a preexisting interest in the timeshare without providing identifying information for that person;
- Representing that sales or rentals have been achieved or generated, unless the resale provider substantiates the statement at the time of representation;
- Representing that a specific number of sales or rentals have been sold or rented without providing the consumer with the ratio or percentage timeshare interests advertised that have actually resulted in a sale or rental for each of the previous two calendar years;
- Representing that a timeshare interest has a specific resale value;
- Collecting any payment that exceeds an aggregate total of \$75 or more in any 12-month period without first receiving a written contract; and
- Failing to honor a cancellation notice sent by the consumer timeshare reseller.

The bill specifies the information that must be included in a written contract for resale advertising services, which includes a conspicuous statement that the consumer has the right to cancel the contract for advertising services within 10 days after the date the contract is signed. The bill also requires that resale advertisers provide a full refund within 20 days of the consumer's cancellation of the agreement, or five days after the consumer's check has cleared, whichever is later.

If the contract for resale advertising services fails to comply with the provisions in the bill, the contract would be voidable at the option of the consumer for one year after the date it is executed by the consumer. If a violation of the provisions in the bill occurs during an offering of resale

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services, both the resale service provider and the person who actually commits the violation would be deemed to have violated this section.

The bill provides that persons who provide resale advertising services for timeshare interest have submitted to the jurisdiction of the state courts. The bill provides a civil penalty of \$15,000 per violation in addition to the penalties and remedies provided in the Unfair and Deceptive Trade Practices Act in part II of ch. 501, F.S.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 113-0