

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 531  
PROPOSED SENATE COMMITTEE SUBSTITUTE H531-PCS30476-TG-34

Short Title: Timeshare Act Changes/Ed. Prov. Bond Repeal. (Public)

Sponsors:

Referred to:

April 13, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE NORTH CAROLINA TIMESHARE ACT AND TO  
3 ELIMINATE BOND REQUIREMENTS FOR CERTIFICATION OF REAL ESTATE  
4 EDUCATION PROVIDERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1.(a) G.S. 93A-34 reads as rewritten:

7 "§ 93A-34. Certification required; application for certification; fees; requirements for  
8 certification.

9 ...

10 (b1) Applications for education providers utilizing methods other than only distance  
11 education shall contain all of the following:

- 12 (1) Name and address of the applicant.
- 13 (2) Names, biographical data, and qualifications of director, administrators, and  
14 instructors.
- 15 (3) Description of education provider school facilities and equipment, if any.
- 16 (4) Description of course or courses to be offered and instructional materials to  
17 be utilized.
- 18 (5) Information on policies and procedures regarding administration, record  
19 keeping, entrance requirements, registration, tuition and fees, grades, student  
20 progress, attendance, and student conduct.
- 21 (6) Copies of bulletins, catalogues, and other official publications.
- 22 ~~(7) Copy of bond required by G.S. 93A-36.~~
- 23 (8) Any additional information as the Commission may deem necessary to enable  
24 it to determine the adequacy of the instructional program and the ability of the  
25 applicant to operate in such a manner as would best serve the public interest.

26 ...."

27 SECTION 1.(b) G.S. 93A-36 is repealed.

28 SECTION 1.(c) Article 4 of Chapter 93A of the General Statutes reads as rewritten:

29 "Article 4.

30 "~~Time Shares.~~Timeshares.

31 "§ 93A-39. Title.

32 This Article shall be known and may be cited as the "North Carolina ~~Time Share~~Timeshare  
33 Act."

34 "§ 93A-40. Registration required of ~~time share projects;~~timeshare programs; real estate  
35 license required.



1 (a) ~~Unless exempt under this Article, it shall be unlawful for any person in this State to~~  
2 ~~engage or assume to engage in the business of a time share developer or time share timeshare~~  
3 ~~salesperson without first obtaining a real estate broker license issued by the North Carolina Real~~  
4 ~~Estate Commission under the provisions of Article 1 of this Chapter unless the timeshare~~  
5 ~~salesperson (i) meets the requirement for exemption set forth in G.S. 93A-2(c)(1) or (ii) is an~~  
6 ~~employee of the registered timeshare developer whose income is reported on IRS Form W-2 of~~  
7 ~~the registered timeshare's developer. It shall be unlawful for a timeshare developer to sell or offer~~  
8 ~~to sell a time share located in this State without the time share developer-timeshare required to~~  
9 ~~be registered in this State pursuant to this Article without first obtaining a certificate of~~  
10 ~~registration for the time share project to be offered for sale issued by the North Carolina Real~~  
11 ~~Estate Commission under the provisions of this Article. A time share salesperson shall be a~~  
12 ~~licensed real estate broker subject to the provisions of this Chapter unless the time share~~  
13 ~~salesperson (i) meets the requirement for exemption set forth in G.S. 93A-2(c)(1) or (ii) is an~~  
14 ~~employee of the registered time share developer, whose income is reported on IRS Form W-2 of~~  
15 ~~the registered time share developer. Article.~~

16 (b) A person responsible as general partner, corporate officer, joint venturer-venture, or  
17 sole proprietor who intentionally acts as a time share-timeshare developer, allowing the offering  
18 of sale or the sale of time shares-timeshares to a purchaser, without first obtaining registration of  
19 the time share-timeshare project under this Article shall be guilty of a Class I felony.

20 (c) The provisions of this Article shall not apply to the following:

- 21 (1) Any arrangement, plan, scheme, or method, including a timeshare program,  
22 wherein the contractually specified maximum total financial obligation on the  
23 owner's part is three thousand dollars (\$3,000) or less during the entire term  
24 of the plan.
- 25 (2) Any arrangement, plan, scheme, or method, including a timeshare program, if  
26 the initial term and any renewal term are each for a period of five years or less,  
27 regardless of the owner's contractually specified maximum total financial  
28 obligation, if any; provided, however, that (i) the period of any optional  
29 renewal term which the owner, in the owner's sole discretion, may  
30 affirmatively elect to exercise, whether or not for additional consideration,  
31 shall not be included, and (ii) the period of any automatic renewals shall be  
32 included unless an owner has the right to terminate the membership at any  
33 time and receive a pro rata refund or the owner receives a notice no less than  
34 30 days and no more than 60 days prior to any renewal term informing the  
35 owner of the right to terminate at any time prior to the date of automatic  
36 renewal.
- 37 (3) The offering or sale, in another jurisdiction, of a timeshare program containing  
38 timeshare units located in this State; provided, however, that the timeshare  
39 program has been registered with the Commission.
- 40 (4) The offering or sale, in this State, of a timeshare program containing only  
41 timeshare units located in another jurisdiction or jurisdictions.
- 42 (5) The offering or sale of no more than seven timeshares within a five-year  
43 period by a consumer timeshare reseller who has acquired the timeshares for  
44 their own use and occupancy and who later offers it for resale, provided that  
45 the owner complies with the provisions of G.S. 93A-67.
- 46 (6) The offering or sale by a managing entity, not otherwise a developer, or a third  
47 party engaged by the managing entity, of 50 or fewer timeshares in the  
48 timeshare program which it manages in a given calendar year to purchasers  
49 who are not existing owners of that timeshare program, provided that the  
50 managing entity complies with the provisions of G.S. 93A-67.

- 1           (7)    The conveyance, assignment, or transfer of more than seven timeshares to a  
2           purchaser who subsequently conveys, assigns, or transfers all acquired  
3           timeshares to a single purchaser in a single transaction, which transaction may  
4           occur in stages.
- 5           (8)    A purchaser's acquisition, or the right to acquire, more than seven timeshare  
6           interests from an owner in connection with a loan, securitization, conduit, or  
7           similar financing arrangement transaction and who subsequently arranges for  
8           all or a portion of the timeshares to be offered by a developer in the ordinary  
9           course of business on its own behalf or on behalf of the purchaser.
- 10          (9)    The offering of an accommodation, product, service, discount, or other benefit  
11          which is incidental to the timeshare program and which is not necessary for  
12          any accommodation of the timeshare program to be available for use by an  
13          owner in a manner consistent in all material respects with the manner  
14          portrayed by any promotional material, advertising, or public offering  
15          statement.

16   **"§ 93A-41. Definitions.**

17    When used in this Article, unless the context otherwise requires, the term:

- 18          (1)    Assessment. – The share of funds required for the payment of common  
19          expenses which is assessed from time to time against each owner by the  
20          managing entity.
- 21          (2)    Board. – The board of directors of a timeshare owners' association.
- 22          (3)    Closing or close. – One of the following:
- 23                a.    For the sale and purchase of a timeshare estate, conveyance of the legal  
24                or beneficial title to the timeshare estate as evidenced by the delivery  
25                of a timeshare instrument for conveyance of legal title or beneficial  
26                title to the purchaser or to the clerk of superior court in the county  
27                where the timeshare estate is located for recording.
- 28                b.    For the sale and purchase of a timeshare use, the final execution and  
29                delivery by all parties of the last document necessary for vesting in the  
30                purchaser the full rights available under the timeshare program.
- 31          (4)(4) ~~"Commission" means the Commission. – The North Carolina Real Estate~~  
32          ~~Commission;Commission.~~
- 33          (5)    Common expense. – All of the following:
- 34                a.    Those expenses, fees, or taxes properly incurred for the maintenance,  
35                operation, and repair of the timeshare units or facilities, or both,  
36                constituting the timeshare program.
- 37                b.    Any other expenses, fees, or taxes designated as common expenses in  
38                a timeshare declaration.
- 39          (6)    Conspicuous type. – A print type that is separated on all sides from other type  
40          and print and that is either (i) print type in upper- and lowercase letters two  
41          point sizes larger than the largest non-conspicuous type, exclusive of  
42          headings, on the page on which it appears, but not less than 10-point type, or  
43          (ii) where the use of 10-point type would be impractical or impossible, a  
44          different style of type or print that is conspicuous under the circumstances.
- 45          (7)    Consumer resale timeshares. – One of the following:
- 46                a.    A timeshare owned by an owner.
- 47                b.    One or more reserved occupancy rights relating to a timeshare owned  
48                by an owner.
- 49                c.    One or more reserved occupancy rights relating to, or arranged  
50                through, an exchange program in which an owner is a member.

- 1           (8)    Consumer timeshare reseller. – An owner who acquires a timeshare for their  
2           own use and occupancy and later offers the timeshare or the occupancy rights  
3           associated with the timeshare for resale or rental, or who contracts with a  
4           transfer service provider.
- 5           ~~(2)~~(9) "Developer" means any Developer. – Any person or entity which (i) creates a  
6           ~~time share or a time share project or program, timeshare, timeshare project, or~~  
7           ~~timeshare program, (ii) purchases a time share timeshare for purpose of resale,~~  
8           or (iii) is engaged in the business of selling its own time shares timeshares it  
9           owns or controls and shall include any person or entity who controls, is  
10           controlled by, or is in common control with the developer which is engaged  
11           in creating or selling time shares timeshares for the developer, but a person  
12           who purchases a time share for his or her occupancy, use, and enjoyment shall  
13           not be deemed a developer; developer.
- 14           (10)   Electronic. – Relating to technology having electrical, digital, magnetic,  
15           wireless, optical, electromagnetic, or similar capabilities.
- 16           ~~(3)~~(11) "Enrolled" means paid membership in exchange programs or membership in  
17           ~~an exchange program evidenced by written acceptance or confirmation of~~  
18           ~~membership; Enrolled. – Membership in an exchange program.~~
- 19           ~~(4)~~(12) "Exchange company" means any Exchange company. – Any person operating  
20           ~~an exchange program; program.~~
- 21           ~~(5)~~(13) "Exchange program" means any opportunity or procedure for the assignment  
22           ~~or exchange of time shares among purchasers in the same or other time share~~  
23           ~~project; Exchange program. – Any method, arrangement, or procedure for the~~  
24           voluntary exchange of the right to use and occupy timeshare units among  
25           owners, even if enrollment is not voluntary.
- 26           (14)   Foreclosing party. – A trustee, mortgagee, managing entity, or their authorized  
27           agent who has the designated authority to pursue a nonjudicial foreclosure  
28           proceeding pursuant to G.S. 93A-62.
- 29           ~~(5a)~~(15) "Independent escrow agent" means a Independent escrow agent. – A licensed  
30           attorney located in this State State, or a financial institution located in this  
31           ~~State; a federally insured depository institution or licensed title insurance~~  
32           underwriter or agency, lawfully doing business in this State, which agrees to  
33           make its records of the account available for inspection by the Commission's  
34           representative; provided, however, that (i) the independent escrow agent is not  
35           a relative or an employee of the developer or managing entity, or of any  
36           officer, director, affiliate, or subsidiary thereof, (ii) there is no financial  
37           relationship, other than the payment of fiduciary fees, between the  
38           independent escrow agent and the developer or managing entity, or any  
39           officer, director, affiliate, or subsidiary thereof, and (iii) compensation paid  
40           by the developer to an independent escrow agent is not paid from funds in the  
41           escrow account unless and until the developer is otherwise entitled to receive  
42           the disbursement of such funds from the escrow account in accordance with  
43           this Article. A person shall not be disqualified to serve as an independent  
44           escrow agent solely because of any of the following:
- 45           a.     A nonemployee, attorney-client relationship exists between the  
46           developer or managing entity and the independent escrow agent or any  
47           officer, director, affiliate, or subsidiary thereof.
- 48           b.     The independent escrow agent provides the developer or managing  
49           entity with routine banking services which do not include construction  
50           or receivables financing or any other lending activities.

- 1           c.       The independent escrow agent performs closings for the developer or  
2           issues owner's or lender's title insurance commitments or policies in  
3           connection with such closings.
- 4           d.       The independent escrow agent is a licensed attorney or a licensed title  
5           insurance underwriter or agency and performs timeshare transfer  
6           services.
- 7       (6)       ~~"Managing agent" means a person who undertakes the duties, responsibilities,~~  
8       ~~and obligations of the management of a time share program;~~
- 9       (16)       Interest holder. – A developer, a mortgagee, judgment creditor, or other lienor,  
10       or any other person having an interest in or lien or encumbrance against the  
11       real property or personal property comprising or underlying the timeshare  
12       property, including the timeshares and the timeshare units, but excluding the  
13       timeshare declaration and any encumbrance placed against an owner's  
14       timeshare securing the owner's payment of purchase money financing for the  
15       purchase. With respect to a multisite timeshare program which contains  
16       timeshare units that are also part of an underlying timeshare program or  
17       condominium or other property regime, the term does not include a developer,  
18       a mortgagee, judgment creditor, or other lienor, or any other person having an  
19       interest in or lien or encumbrance against a timeshare in an underlying  
20       timeshare program or against a timeshare unit or other accommodation in an  
21       underlying condominium or property regime, except as to any timeshare,  
22       timeshare unit, or other accommodation that is specifically subject to, or  
23       otherwise dedicated to, the multisite timeshare program.
- 24       (17)       Lead dealer. – A person who sells or otherwise provides a resale service  
25       provider or any other person with personal contact information for five or  
26       more purchasers or owners. If a lead dealer is not a natural person, the term  
27       shall also include the natural person providing personal contact information  
28       to a resale service provider or other person on behalf of the lead dealer entity.  
29       The term does not include developers, managing entities, or exchange  
30       companies to the extent they provide others with personal contact information  
31       about purchasers or owners of timeshares in their own timeshare programs or  
32       members of their own exchange programs. The term does not include persons  
33       providing personal contact information that is not designed specifically or  
34       primarily to identify owners of timeshares even though the information  
35       provided may include five or more purchasers or owners.
- 36       (18)       Managing entity. – Any developer, timeshare owners' association, or  
37       third-party management firm that has the duties, responsibilities, and  
38       obligations of managing a timeshare project or timeshare program.
- 39       (19)       Multisite timeshare program. – A timeshare program under which an owner  
40       obtains, by any means, a recurring right to reserve, use, or occupy timeshare  
41       units of more than one timeshare project through the mandatory use of a  
42       reservation system in competition with other owners in the same timeshare  
43       program.
- 44       (20)       One-to-one use night to use right ratio. – The ratio of the number of owners  
45       eligible to use the timeshare units on a given night to the number of timeshare  
46       units available for use within the timeshare program on that night, such that  
47       the total number of owners eligible to use the timeshare units during a given  
48       calendar year never exceeds the total number of timeshare units available for  
49       use in the timeshare program during that year. For purposes of the calculation  
50       under this definition, each owner must be counted at least once, and no  
51       individual timeshare units may be counted more than 365 times per calendar

1 year or more than 366 times per leap year. An owner who is delinquent in the  
2 payment of timeshare program assessments shall continue to be considered  
3 eligible to use the timeshare units of the timeshare program for purposes of  
4 calculating the one-to-one use night to use right ratio.

5 (21) Owner. – Any person, other than a developer, who has acquired a timeshare.

6 ~~(7)(22) "Person" means one Person. – One or more natural persons, corporations,~~  
7 ~~partnerships, associations, trusts, other entities, or any combination~~  
8 ~~thereof;thereof.~~

9 (23) Personal contact information. – Any information that can be used to contact a  
10 purchaser or an owner, including, but not limited to, the purchaser's or owner's  
11 name, address, telephone number, and email address.

12 ~~(7a)(24) "Project broker" means a Program broker. – A natural person licensed as a~~  
13 ~~real estate broker and designated by the developer to supervise brokers at the~~  
14 ~~time share project;timeshare program.~~

15 ~~(8)(25) "Purchaser" means any person other than a developer or lender who owns or~~  
16 ~~acquires an interest or proposes to acquire an interest in a time~~  
17 ~~share;Purchaser. – Any person, other than a developer, who is advertised or~~  
18 ~~solicited to acquire a timeshare, offered a timeshare, or enters into a timeshare~~  
19 ~~instrument to acquire a timeshare.~~

20 (26) Regulated party. – Any developer, exchange company, managing entity,  
21 timeshare owners' association, timeshare owners' association director or  
22 officer, third-party management firm, independent escrow agent, lead dealer,  
23 resale broker, resale service provider, resale advertiser, timeshare transfer  
24 provider, timeshare registrar, any other person having duties or obligations  
25 pursuant to this Article, and any of their respective assignees or agents.

26 (27) Resale advertiser. – Any person who offers, personally or through an agent,  
27 resale advertising services to consumer timeshare resellers for compensation  
28 or other valuable consideration, regardless of whether the offer is made in  
29 person, by mail, by telephone, through the internet, or by any other medium  
30 of communication. The term does not include any of the following:

31 a. A resale broker to the extent that resale advertising services are offered  
32 in connection with timeshare resale brokerage services and no fee for  
33 the resale advertising service is collected in advance.

34 b. A developer or managing entity to the extent that either of them offers  
35 resale advertising services to owners of timeshares in their own  
36 timeshare programs.

37 c. A newspaper, periodical, or website owner, operator, or publisher,  
38 unless the newspaper, periodical, or website owner, operator, or  
39 publisher derives more than ten percent (10%) of its gross revenue  
40 from providing resale advertising services.

41 (28) Resale advertising service. – The provision of any good or service relating to  
42 advertising or promoting the resale or rental of a consumer resale timeshare  
43 located or offered within this State, including any offer to advertise or promote  
44 the sale or purchase of any such interest.

45 (29) Resale broker. – Any person who is issued a broker's license by the North  
46 Carolina Real Estate Commission under the provisions of Article 1 of this  
47 Chapter and who offers or provides resale brokerage services to consumer  
48 timeshare resellers for compensation or other valuable consideration,  
49 regardless of whether the offer is made in person, by mail, by telephone,  
50 through the internet, or by any other medium of communication. The term  
51 includes any agent or employee of a resale broker.

- 1           (30) Resale brokerage services. – With respect to a consumer resale timeshare  
 2 located or offered within this State, any activity that directly or indirectly  
 3 consists of any of the activities regulated under G.S. 93A-1.
- 4           (31) Resale service provider. – Any resale advertiser, or other person or entity,  
 5 including any agent or employee of that person or entity, who offers resale  
 6 brokerage or resale advertising services to consumer timeshare resellers. The  
 7 term does not include (i) developers or managing entities to the extent they  
 8 offer resale brokerage or resale advertising services to owners of timeshares  
 9 in their own timeshare programs or (ii) resale brokers to the extent that resale  
 10 advertising services are offered in connection with resale brokerage services  
 11 and no fee for the advertising service is collected in advance.
- 12           (32) Reservation system. – The method, arrangement, procedure, rules, and  
 13 regulations by which an owner reserves the use and occupancy of a timeshare  
 14 unit for one or more timeshare periods.
- 15           (33) Reservation system operator. – The person who has the responsibility for  
 16 operating any reservation system for the timeshare program. Unless the  
 17 timeshare declaration provides otherwise, the operator of the reservation  
 18 system is the managing entity of a timeshare program. The reservation system  
 19 operator may be a third-party entity that has contracted with the developer or  
 20 managing entity to provide the reservation system for the timeshare program,  
 21 provided that the third party shall be deemed a managing entity as to the  
 22 operation of the reservation system for purposes of this Article.
- 23           ~~(9)(34)~~ "Time share" means a right to occupy a unit or any of several units during five  
 24 or more separated time periods over a period of at least five years, including  
 25 renewal options, whether or not coupled with a freehold estate or an estate for  
 26 years in a time share project or a specified portion of a time share project.  
 27 "Time share" shall also include a vacation license, prepaid hotel reservation,  
 28 club membership, limited partnership, vacation bond, or a plan or system  
 29 where the right to use a time share unit or units for periods of time is awarded  
 30 or apportioned on the basis of points, vouchers, split, divided, or floating use,  
 31 even if on a competitive basis with other purchasers;~~Timeshare.~~ – A timeshare  
 32 estate or timeshare use.
- 33           (35) Timeshare declaration. – One or more documents, by whatever name  
 34 denominated, establishing, creating, or governing the operation of a timeshare  
 35 program.
- 36           (36) Timeshare estate. – The right to occupy a timeshare unit coupled with  
 37 ownership of any of the following real property interests:
- 38           a. A freehold estate or an estate for years with a future interest in  
 39 property.
- 40           b. An ownership interest in a condominium unit.
- 41           c. A direct or indirect beneficial interest in a trust, provided that both of  
 42 the following conditions are met:
- 43               1. The timeshare instrument contains a provision declaring that  
 44 such interests are real property interests.
- 45               2. The trust does not contain any timeshares created in personal  
 46 property.
- 47           ~~(9a)(37)~~ "Time share instrument" means an Timeshare instrument. – An instrument  
 48 transferring a time share timeshare or any interest, legal or beneficial, in a time  
 49 share timeshare to a purchaser, including a contract, installment contract,  
 50 lease, deed, or other instrument;~~instrument.~~

- 1           (38) Timeshare owners' association. – An association made up of all owners of  
2 timeshares in a timeshare program, including developers.
- 3           (39) Timeshare period. – The period or periods of time when an owner is afforded  
4 the opportunity to use a timeshare unit under the terms of the timeshare  
5 program.
- 6           (10)(40) "Time share program" means any arrangement for time shares whereby real  
7 property has been made subject to a time share;Timeshare program. – Any  
8 arrangement, plan, program, scheme, or similar device, other than an  
9 exchange program, whether by membership, agreement, tenancy in common,  
10 sale, lease, deed, rental agreement, license, or right-to-use agreement, or by  
11 any other means whereby an owner receives the right to use timeshare units  
12 for a period of time less than a full year during any given year, but not  
13 necessarily for consecutive years.
- 14           (11)(41) "Time share project" means any real property that is subject to a time share  
15 program;Timeshare project. – A specific geographic site where all or a portion  
16 of the timeshare units of a timeshare program are located. If phased  
17 development is permitted under applicable law, separate phases operated as a  
18 single development located at a specific geographic site under common  
19 management may be deemed a single timeshare project by the developer.
- 20           (42) Timeshare property. – The property included in or subject to a timeshare  
21 program, including timeshares in an underlying timeshare program, one or  
22 more timeshare units, any amenities, any other property, and appurtenant  
23 property or rights.
- 24           (11a)(43) "Time share registrar" means a Timeshare registrar. – A natural person who  
25 is designated by the developer to record or cause ~~time share~~ timeshare  
26 instruments and lien releases to be recorded and to fulfill the other duties  
27 imposed by this ~~Article~~; Article.
- 28           (12)(44) "Time share salesperson" means a Timeshare salesperson. – A person who  
29 sells or offers to sell on behalf of a developer a ~~time share~~ timeshare to a  
30 ~~purchaser~~; and purchaser.
- 31           (45) Timeshare transfer services. – Any service offered or provided in this State,  
32 or offered or provided anywhere in connection with a timeshare program  
33 containing timeshare units or a timeshare property located in this State, that  
34 provides assistance in the resale, transfer, relinquishment, or other disposition  
35 of a consumer timeshare reseller's timeshare, including a reconveyance or  
36 other transfer to a developer or managing entity, whether referred to as  
37 timeshare exit, timeshare cancellation, timeshare relief, or any similar phrase.  
38 The term does not include resale advertising services.
- 39           (46) Timeshare transfer services agreement. – A contract or other agreement  
40 between a transfer service provider and a consumer timeshare reseller in  
41 which the transfer service provider agrees to provide such services.
- 42           (13)(47) "Time share unit" or "unit" means the Timeshare unit. – The real property  
43 or real property improvement in a project which is divided into ~~time shares~~  
44 timeshares and designated for separate occupancy and use.
- 45           (48) Timeshare use. – The right to occupy a timeshare unit that is not coupled with  
46 ownership of a real property interest.
- 47           (49) Transfer service provider. – Any person, including any agent, representative,  
48 subsidiary, successor, or employee of that person or entity, unless otherwise  
49 exempt, who offers or uses telemarketing, direct mail, email, or any other  
50 means of communication in connection with the offering of timeshare transfer  
51 services.



1 "§ 93A-42. Time shares-Timeshare estates deemed real estate-estate; timeshare uses.

2 (a) ~~A time share which in whole or in part burdens or pertains to real property in this~~  
3 ~~State timeshare~~ estate is deemed to be an interest in real ~~estate, estate~~ and shall be governed by  
4 the law of this State relating to real estate.

5 (b) ~~A purchaser-An owner~~ of a time share which burdens or pertains to real property  
6 timeshare located in the State ~~may may~~, in accordance with ~~G.S. 47-18-G.S. 47-18~~, register the  
7 ~~time share-timeshare~~ instrument by which the ~~purchaser-owner~~ acquired the interest and upon  
8 such registration shall be entitled to the protection provided by Chapter 47 of the General Statutes  
9 for the recordation of other real property instruments. A ~~time share-timeshare~~ instrument  
10 transferring or encumbering a ~~time share-timeshare~~ estate shall not be rejected for recordation  
11 because of the nature or duration of that estate, provided all other requirements necessary to make  
12 an instrument recordable are complied with. An instrument concerning a ~~time share which~~  
13 ~~burdens or pertains to no real property located in this State~~ timeshare use shall not be recorded  
14 in the office of the register of deeds in any county in this State.

15 (c) Unless the timeshare instrument provides otherwise, the developer shall close on the  
16 sale of a timeshare estate and record or cause to be recorded a timeshare instrument for timeshare  
17 estates located in this State no later than 180 days following the execution of the contract of sale  
18 by the purchaser, provided that all payments made by the purchaser have been placed by the  
19 developer with an independent escrow agent in accordance with G.S. 93A-45.

20 ~~The developer shall record or cause to be recorded a time share instrument:~~

21 (1) ~~Not less than six days nor more than 45 days following the execution of the~~  
22 ~~contract of sale by the purchaser; or~~

23 (2) ~~Not later than 180 days following the execution of the contract of sale by the~~  
24 ~~purchaser, provided that all payments made by the purchaser shall be placed~~  
25 ~~by the developer with an independent escrow agent upon the expiration of the~~  
26 ~~10 day escrow period provided by G.S. 93A-45(c).~~

27 (d) ~~The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and~~  
28 ~~maintain the purchaser's payments in an insured trust or escrow account in a federally insured~~  
29 ~~depository institution or a trust institution authorized to do business in this State. The trust or~~  
30 ~~escrow account may be interest bearing and the interest earned shall belong to the developer, if~~  
31 ~~agreed upon in writing by the purchaser; provided, however, if the time share instrument is not~~  
32 ~~recorded within the time periods specified in this section, then the interest earned shall belong to~~  
33 ~~the purchaser. The independent escrow agent shall return all payments to the purchaser at the~~  
34 ~~expiration of 180 days following the execution of the contract of sale by the purchaser, unless~~  
35 ~~prior to that time the time share instrument has been recorded. However, if prior to the expiration~~  
36 ~~of 180 days following the execution of the contract of sale, the developer and the purchaser~~  
37 ~~provide their written consent to the independent escrow agent, the developer's obligation to~~  
38 ~~record the time share instrument and the escrow period may be extended for an additional period~~  
39 ~~of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall~~  
40 ~~pay the purchaser's funds to the developer. Upon request by the Commission, the independent~~  
41 ~~escrow agent shall promptly make available to the Commission inspection of records of money~~  
42 ~~held by the independent escrow agent.~~

43 (e) In no event shall the developer be required to close and record a time share-timeshare  
44 instrument if the purchaser is in default of the purchaser's obligations-obligations under the  
45 contract of sale.

46 (f) Recordation under the provisions of this section of the ~~time share-timeshare~~  
47 instrument shall constitute delivery of that instrument from the developer to the purchaser.

48 (g) A timeshare use is not an interest in real property and shall be governed by the laws  
49 of this State relating to personal property. For each transfer of the legal title to a timeshare use  
50 by a developer, the developer shall deliver an instrument evidencing such transfer to the  
51 purchaser at closing. Unless the timeshare instrument provides otherwise, the developer shall

1 close on the sale of a timeshare use no later than 180 days following the execution of the contract  
2 of sale by the purchaser, provided that all payments made by the purchaser shall be placed by the  
3 developer with an independent escrow agent in accordance with G.S. 93A-45. In no event shall  
4 the developer be required to close on the sale of a timeshare use if the purchaser is in default of  
5 the purchaser's obligations under the contract of sale.

6 (h) A developer may not sell or close on the sale of any timeshare that would cause the  
7 total number of timeshares available for use in the timeshare program to exceed the one-to-one  
8 use night to use right ratio.

9 **"§ 93A-42.1. Construction and validity of declarations adopted prior to the Time Share**  
10 **Timeshare Act.**

11 (a) All provisions contained in ~~time share~~ timeshare declarations adopted and recorded  
12 at the appropriate register of deeds office prior to July 1, 1984, are severable.

13 (b) The rule against perpetuities may not be applied to defeat any provision of ~~time share~~  
14 timeshare declarations or bylaws adopted and recorded at the appropriate register of deeds office  
15 prior to July 1, 1984.

16 (c) Except as otherwise provided in the ~~time share~~ timeshare declaration, the board of  
17 directors of a ~~time share~~ timeshare project may, by an affirmative vote of two-thirds of the board,  
18 amend a provision within the ~~time share~~ timeshare declaration, provided that the provision to be  
19 changed meets all of the following criteria:

- 20 (1) The provision was adopted as part of the original ~~time share~~ timeshare  
21 declaration recorded prior to July 1, 1984.  
22 (2) The provision either converts or provides a mechanism to convert ownership  
23 of ~~time share~~ timeshare units to tenancy in common.

24 (d) Title or interest in a ~~time share~~ timeshare project or unit is not rendered unmarketable  
25 or otherwise affected by reason of an insubstantial failure of the ~~time share~~ timeshare declaration  
26 to comply with this section. Whether a substantial failure to comply with this section impairs  
27 marketability shall be determined by the laws of this State relating to marketability.

28 (e) This section shall not otherwise impair the ability of the individual ~~time share~~  
29 timeshare owner's right under the ~~time share~~ timeshare declaration, bylaws, or the laws of this  
30 State to vote to terminate the ~~time share~~ timeshare project or to amend the declaration to provide  
31 for the termination of the ~~time share~~ timeshare project and interests.

32 **"§ 93A-43. Partition.**

33 When a ~~time share~~ timeshare is owned by two or more persons as tenants in common or as  
34 joint tenants, either may seek a partition by sale of that interest under Chapter 46A of the General  
35 Statutes, but no ~~purchaser owner~~ of a ~~time share~~ timeshare shall maintain a proceeding for  
36 partition, whether by actual partition or by partition sale, of the ~~unit~~ timeshare unit, timeshare  
37 project, or timeshare program in which the time share timeshare is held.

38 **"§ 93A-44. Public Contract of sale; public offering statement.**

39 ~~Each developer shall fully and conspicuously disclose in a public offering statement:~~

- 40 (1) ~~The total financial obligation of the purchaser, which shall include the initial~~  
41 ~~purchase price and any additional charges to which the purchaser may be~~  
42 ~~subject;~~  
43 (2) ~~Any person who has or may have the right to alter, amend or add to charges~~  
44 ~~to which the purchaser may be subject and the terms and conditions under~~  
45 ~~which such charges may be imposed;~~  
46 (3) ~~The nature and duration of each agreement between the developer and the~~  
47 ~~person managing the time share program or its facilities;~~  
48 (4) ~~The date of availability of each amenity and facility of the time share program~~  
49 ~~when they are not completed at the time of sale of a time share;~~  
50 (5) ~~The specific term of the time share;~~

- 1           (6) ~~The purchaser's right to cancel within five days of execution of the contract~~  
2           ~~and how that right may be exercised under G.S. 93A-45;~~  
3           (7) ~~A statement that under North Carolina law an instrument conveying a time~~  
4           ~~share must be recorded in the Register of Deeds Office to protect that interest;~~  
5           ~~and~~  
6           (8) ~~Any other information which the Commission may by rule require.~~

7           The public offering statement shall also contain a one page cover containing a summary of  
8 the text of the statement. (1983, c. 814, s. 1.)

9           (a) The contract of sale between a developer and a purchaser for the sale and purchase of  
10 a timeshare must include the following:

- 11           (1) The name and address of the developer.  
12           (2) The name and address of the timeshare program being offered.  
13           (3) An identification or legal description of the timeshare being sold, including  
14 whether any interest in real property or personal property is being conveyed  
15 and the number of years constituting the term of the timeshare program or the  
16 timeshare if less than the term of the timeshare program.  
17           (4) If the purchaser acquires a timeshare in a specific timeshare project, the name  
18 and location of the timeshare project to which the specific timeshare relates.  
19           (5) A statement that the purchaser should refer to the timeshare public offering  
20 statement for more information required to be provided to the purchaser.  
21           (6) The initial purchase price and all additional charges to which the purchaser  
22 may be subject in connection with the purchase of the timeshare, such as  
23 financing, or which will be collected from the purchaser on or before closing,  
24 such as the current year's annual assessment or any initial or special fee  
25 together with a description of the purpose of such initial or special fee.  
26           (7) A statement disclosing the amount of the periodic assessments currently  
27 assessed against or collected from owners who own similar types of  
28 timeshares in that timeshare program.  
29           (8) The name and address of the independent escrow agent required by  
30 G.S. 93A-45(d).  
31           (9) The purchaser's address for the purposes of delivery of any notices.  
32           (10) The date the purchaser signs the contract of sale.  
33           (11) The following statement in conspicuous type:  
34 "Any resale of this timeshare must be accompanied by certain disclosures in  
35 accordance with the North Carolina Timeshare Act."  
36           (12) A statement in conspicuous type immediately prior to the purchaser's  
37 signature block in substantially the following form:  
38 "You may cancel this contract of sale without any penalty or obligation before  
39 midnight five days after the date you sign this contract of sale or received the  
40 required public offering statement and all documents required to be delivered  
41 to you, whichever is later. If you decide to cancel this contract of sale, you  
42 must notify the developer in writing of your intent to cancel. Your notice of  
43 cancellation shall be effective upon the date sent and shall be sent to the  
44 developer at [insert address]. Any attempt to obtain a waiver of your  
45 cancellation right is void and of no effect. While you may execute all closing  
46 documents in advance, the closing on your purchase before expiration of your  
47 five-day cancellation period is prohibited."

48           (b) Prior to the execution of a contract of sale by a purchaser, each developer shall provide  
49 the purchaser with a public offering statement and shall obtain from the purchaser a written  
50 acknowledgement of receipt of the public offering statement and any documents required to be

1 delivered to the purchaser. In addition to any other information that the developer discloses, the  
2 public offering statement must contain the following:

3 (1) A cover page stating only the name of the timeshare program and in  
4 conspicuous type, substantially the following statement:

5 "This public offering statement contains important matters to be considered in  
6 acquiring a timeshare. The statements contained in this public offering  
7 statement are only summary in nature. Purchaser should refer to all references,  
8 accompanying exhibits, contract documents, finance documents, and sales  
9 materials. Purchaser should not rely upon oral representations as being  
10 correct. The developer is prohibited from making any representations other  
11 than those contained in the contract of sale and this public offering statement."

12 (2) The name and principal address of the developer.

13 (3) A general description of the timeshare program, including the nature and types  
14 of timeshares in the timeshare program and if it is a multisite timeshare  
15 program.

16 (4) A description of the duration of the timeshare program and whether it includes  
17 timeshares having a shorter duration than the duration of the timeshare  
18 program.

19 (5) A description of the method by which an owner can reserve, use, and occupy  
20 the timeshare units, including the following:

21 a. The name and principal address of the entity that owns the reservation  
22 system and the entity responsible for operating the reservation system,  
23 their relationship to the developer, and the duration of any agreement  
24 for operating the reservation system.

25 b. A summary of the material rules governing access to and use of the  
26 reservation system, including (i) a description of the limitations,  
27 restrictions, or priorities applied in the operation of the timeshare  
28 program, (ii) if such limitations, restrictions, or priorities are not  
29 uniformly applied, a description of the manner in which they are  
30 applied, (iii) an explanation of any priority reservation features that  
31 affect an owner's ability to make reservations for the use of a given  
32 timeshare unit on a first-come, first-served basis, (iv) whether the  
33 owner must be in good standing with respect to payment of all sums  
34 due the managing entity in order to reserve, use, or occupy a timeshare  
35 unit, and (v) the terms and conditions for making, deferring, or  
36 cancelling reservations, including any transaction fees or other charges  
37 and, if applicable, a statement that such fees or charges are subject to  
38 change without owner approval.

39 c. Any periodic adjustment or amendment to the reservation system that  
40 may be conducted in order to respond to owner use patterns and  
41 changes in owner use demand for the timeshare units, timeshare  
42 projects, or timeshare periods. If ownership or use of the timeshare  
43 program is based on a point system, a statement indicating the  
44 circumstances by which the point values may change, the extent of  
45 such changes, and the person or entity responsible for the changes.

46 d. Whether and under what circumstances an owner may lose the right to  
47 reserve, use, or occupy a timeshare unit without being provided with a  
48 substitute reservation, use, or occupancy.

49 e. The disposition of timeshares or time periods that are not reserved by  
50 owners prior to the start of the timeshare period or prior to the start of

- 1                    any established point in time and who has the right to reserve and  
2                    benefit from such unreserved timeshares or timeshare periods.
- 3                    f.                If the operator of the reservation system is going to exercise the right  
4                    granted to it by G.S. 93A-63(d) to reserve, deposit, or rent the  
5                    timeshare periods or timeshare units for the purpose of facilitating the  
6                    use or future use of the timeshare periods or timeshare units or other  
7                    benefits made available through the timeshare program by owners, a  
8                    statement in conspicuous type, in substantially the following form,  
9                    shall be included:  
10                   "The managing entity shall have the right to forecast anticipated  
11                   reservation and use of the timeshare period or timeshare units and is  
12                   authorized to reasonably reserve, deposit, or rent the timeshare period  
13                   or timeshare units for the purpose of facilitating the use or future use  
14                   of the accommodations or other benefits made available through the  
15                   timeshare program by the owners."
- 16                   g.                Any use or transaction fees or charges to be paid by owners for the  
17                   reservation, use, or occupancy of any timeshare units or amenities and,  
18                   if applicable, a statement that the fees or charges are subject to change  
19                   without owner approval.
- 20                   h.                The rules governing the making, cancelling, or transferring of  
21                   reservations.
- 22                   (6)            For each timeshare project, the following information:
- 23                   a.                A description of the existing timeshare units and future timeshare units  
24                   committed to be constructed or obtained, including the location of the  
25                   timeshare project or timeshare projects in the timeshare program, and  
26                   the number of bedrooms, number of bathrooms, sleeping capacity, and  
27                   whether the timeshare unit contains a full kitchen for each timeshare  
28                   project.
- 29                   b.                A description of any existing amenities and future amenities  
30                   committed to be constructed or obtained, and whether such amenities  
31                   are included as part of the ownership of a timeshare or made separately  
32                   available and on what basis.
- 33                   c.                The estimated date that future timeshare units or amenities will be  
34                   available as committed, and a description of financial arrangements  
35                   for the completion or acquisition of future timeshare units or amenities  
36                   as committed.
- 37                   d.                A description of the method and timing for performing maintenance  
38                   of the timeshare units.
- 39                   (7)            A statement indicating that, on an annual basis, the one-to-one use night to  
40                   use right ratio will be maintained through the duration of the timeshare  
41                   program, except temporarily pursuant to G.S. 93A-61(g), or temporarily as a  
42                   result of a casualty or eminent domain action.
- 43                   (8)            For multisite timeshare programs, a description of (i) any reserved rights to  
44                   make additions, substitutions, or deletions of timeshare units, amenities, or  
45                   timeshare projects, (ii) who has the authority to make such additions,  
46                   substitutions, or deletions and whether owners have the right to consent, and  
47                   (iii) the basis upon which such timeshare units, amenities, or timeshare  
48                   projects may be added to, substituted for, or deleted from the timeshare  
49                   program.
- 50                   (9)            With respect to the managing entity for the timeshare program, the following  
51                   information, if applicable:

- 1           a.     The name and principal address of the managing entity of the  
2           timeshare program.
- 3           b.     Whether the managing entity for any timeshare project is different than  
4           the managing entity of the multisite timeshare program.
- 5           c.     If there is a timeshare owners' association at a timeshare project or for  
6           a multisite timeshare program, whether owners are members of the  
7           timeshare owners' association, together with a general description of  
8           their rights and responsibilities with respect to the timeshare owners'  
9           association.
- 10          d.     If there is a management firm, the term of the management agreement.
- 11       (10) A description of the method for calculating and apportioning assessments  
12       among owners, including the developer, together with a description of the  
13       consequences to the owner if assessments are not timely paid. The description  
14       shall also include whether reserves for the timeshare units and amenities have  
15       been established, and if not, or if any reserves are not fully funded, a statement  
16       to that effect in conspicuous type.
- 17       (11) If the developer intends to guarantee the level of assessments for the timeshare  
18       program, a statement disclosing that the developer may be excused from the  
19       payment of the developer's share of the assessments which would have been  
20       assessed against developer-owned timeshares during the guarantee period.
- 21       (12) A statement that the timeshare to be acquired by the purchaser and the  
22       timeshare property, on or before closing, (i) will be free and clear of any  
23       interest in or lien or encumbrance against the timeshare and the timeshare  
24       property by the developer or any interest holders or (ii) are the subject of a  
25       recorded subordination and notice to creditors instrument pursuant to  
26       G.S. 93A-57.
- 27       (13) A description of any civil or criminal suit or adjudication or disciplinary  
28       actions material to the timeshare program of which the developer has  
29       knowledge, including any bankruptcy of the developer that is pending or that  
30       has occurred within the past five years.
- 31       (14) A description of the insurance insuring the timeshare property for damage and  
32       destruction and insuring owners and, if applicable, the timeshare owners'  
33       association.
- 34       (15) A description of the requirements for, or restraint on, the transfer or rental of  
35       a timeshare, including any right of first refusal or the imposition of any fees  
36       or charges.
- 37       (16) A statement disclosing that any funds paid to the developer in connection with  
38       the purchase of a timeshare shall be held by an independent escrow agent in  
39       accordance with G.S. 93A-45(d) or that the developer has provided financial  
40       assurances in an amount equal to or in excess of the funds that would  
41       otherwise be held by the independent escrow agent, and that if the purchaser  
42       elects to exercise the right of cancellation or the developer defaults under the  
43       contract of sale, any funds paid to the developer shall be returned to the  
44       purchaser, as set forth in G.S. 93A-45(c).
- 45       (17) If the developer or managing entity provides purchasers with the opportunity  
46       to become a member of an exchange program in connection with the purchase  
47       of the timeshare, the name and address of the exchange company and the  
48       material terms of the opportunity.
- 49       (18) Any person who has or may have the right to alter, amend, or add to fees and  
50       charges to which the owner may be subject and the terms and conditions under  
51       which those fees and charges may be imposed.

1           (19) In conspicuous type, a statement in substantially the following form:  
2           "The purchase of a timeshare should be based upon its value as a vacation  
3           experience or for spending leisure time, and not considered for purposes of  
4           acquiring an appreciating investment or with an expectation that the timeshare  
5           may be rented or resold."

6           (20) A statement that under North Carolina law a timeshare instrument conveying  
7           a timeshare estate located in this State must be recorded in the register of deeds  
8           office at closing.

9           (21) Any other information which the Commission may by rule require. The  
10           Commission is also authorized to prescribe by rule the form of the public  
11           offering statement that must be furnished by the developer to each purchaser.

12       (c) Prior to the execution of a contract of sale by a purchaser, the following documents,  
13 including any amendments, shall also be provided to the purchaser either attached as an exhibit  
14 to the public offering statement or provided as a separate supplement with the public offering  
15 statement:

16           (1) The timeshare declaration.

17           (2) The timeshare owners' association articles of incorporation and bylaws, if  
18           applicable.

19           (3) Any timeshare unit or timeshare project rules and regulations.

20           (4) Timeshare program reservation system rules and regulations.

21           (5) An estimate of the current year's operating budget for the timeshare program.

22           (6) For multisite timeshare programs where a timeshare is provided in a particular  
23 timeshare unit or timeshare project, the applicable documents governing the  
24 timeshare unit or timeshare project set forth in subdivisions (1) through (5) of  
25 this subsection must also be separately provided as part of the public offering  
26 statement.

27       (d) Contemporaneously with the execution of a contract of sale by a purchaser, a copy of  
28 the contract of sale signed by the purchaser, receipt for the public offering statement signed by  
29 the purchaser, any financing documents signed by the purchaser, and any other document signed  
30 by the purchaser at the time of execution of the contract of sale shall be provided to the purchaser.

31       (e) If the purchaser receives documents electronically at the time of execution of a  
32 contract of sale, the developer shall provide the purchaser a separate paper or email copy of the  
33 purchaser's cancellation rights in conspicuous type as described in G.S. 93A-44(a)(12).

34       (f) The developer is prohibited from making any representations other than those  
35 contained in the contract of sale and the public offering statement.

36 **"§ 93A-45. Purchaser's right to cancel; escrow; violation.**

37       (a) ~~A developer shall, before transfer of a time share and no later than the date of any~~  
38 ~~contract of sale, provide a prospective purchaser with a copy of a public offering statement~~  
39 ~~containing the information required by G.S. 93A-44. The contract of sale is voidable by the~~  
40 ~~purchaser for five days after the execution of the contract. The contract shall conspicuously~~  
41 ~~disclose the purchaser's right to cancel under this subsection and how that right may be exercised.~~  
42 ~~The purchaser may not waive this right of cancellation. Any oral or written declaration or~~  
43 ~~instrument that purports to waive this right of cancellation is void.~~ A purchaser has the right to  
44 cancel the contract of sale until midnight of the fifth day after the later of the following events:

45           (1) The purchaser's execution of the contract of sale.

46           (2) The purchaser's receipt of the public offering statement pursuant to  
47 G.S. 93A-44 and all other documents required to be provided to the purchaser  
48 pursuant to G.S. 93A-44.

49 The purchaser may not waive this right of cancellation. Any oral or written declaration or  
50 instrument that purports to waive this right of cancellation is void. No closing may occur until  
51 the cancellation period of the purchaser has expired.

1 (b) ~~A purchaser may elect to cancel within the time period set out in subsection (a) by~~  
2 ~~hand delivering or by mailing notice to the developer or the time share salesperson. Cancellation~~  
3 ~~under this section is without penalty and upon receipt of the notice all payments made prior to~~  
4 ~~cancellation must be refunded immediately. Any notice of cancellation shall be considered given~~  
5 ~~on the date postmarked if mailed, or when transmitted if delivered by electronic means, so long~~  
6 ~~as the notice is actually received by the developer or independent escrow agent. If given by means~~  
7 ~~of a writing transmitted other than by mail, the notice of cancellation shall be considered given~~  
8 ~~at the time of delivery at the place for receipt of notice provided by the developer.~~

9 (c) ~~Any payments received by a time share developer or time share salesperson in~~  
10 ~~connection with the sale of the time share shall be immediately deposited by the developer or~~  
11 ~~salesperson in a trust or escrow account in a federally insured depository institution or a trust~~  
12 ~~institution authorized to do business in this State and shall remain in such account for 10 days or~~  
13 ~~cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow~~  
14 ~~accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow~~  
15 ~~requirements, the Commission shall have the authority to accept, in its discretion, alternative~~  
16 ~~financial assurances adequate to protect the purchaser's interest during the contract cancellation~~  
17 ~~period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable~~  
18 ~~letter of credit in an amount equal to the escrow requirements. Cancellation under this section is~~  
19 ~~without penalty, and the refund of all monies received by the developer or timeshare salesperson~~  
20 ~~shall be made within 20 days of demand therefor by the purchaser or within five days after receipt~~  
21 ~~of cleared funds from the purchaser, whichever is later.~~

22 (d) ~~If a developer fails to provide a purchaser to whom a time share is transferred with~~  
23 ~~the statement as required by subsection (a), the purchaser, in addition to any rights to damages~~  
24 ~~or other relief, is entitled to receive from the developer an amount equal to ten percent (10%) of~~  
25 ~~the sales price of the time share not to exceed three thousand dollars (\$3,000). A receipt signed~~  
26 ~~by the purchaser stating that the purchaser has received the statement required by subsection (a)~~  
27 ~~is prima facie evidence of delivery of the statement. Prior to a purchaser's execution of a contract~~  
28 ~~of sale, the developer shall establish an escrow account with an independent escrow agent for the~~  
29 ~~purpose of protecting the funds of purchasers required to be escrowed by this subsection. Any~~  
30 ~~funds received prior to closing by a developer or timeshare salesperson in connection with the~~  
31 ~~sale of the timeshare shall be immediately deposited by the developer or salesperson in a trust or~~  
32 ~~escrow account in a federally insured depository institution or a trust institution authorized to do~~  
33 ~~business in this State and shall only be disbursed in accordance with subsection (f) of this section.~~  
34 ~~Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and~~  
35 ~~not the developer. In lieu of escrow requirements, the Commission shall have the authority to~~  
36 ~~accept, in its discretion, alternative financial assurances adequate to protect the purchaser's~~  
37 ~~interest during the contract of sale cancellation period, including, but not limited to, a surety~~  
38 ~~bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow~~  
39 ~~requirements or a financial assurance posted in another jurisdiction.~~

40 (e) ~~A developer shall not be entitled to the release of any escrowed funds until the~~  
41 ~~developer has provided the independent escrow agent with (i) an affidavit stating that the~~  
42 ~~purchaser has defaulted under the contract of sale and the developer is entitled to the escrowed~~  
43 ~~funds pursuant to the terms of the contract of sale or (ii) an affidavit that the developer has~~  
44 ~~performed all of its obligations under the purchase contract, including completion of construction~~  
45 ~~of all promised timeshare units and amenities or the posting of an alternate financial assurance~~  
46 ~~acceptable to the Commission securing the completion of construction, and the developer and~~  
47 ~~purchaser have closed on the contract of sale, together with evidence satisfactory to the~~  
48 ~~independent escrow agent that the timeshare and the timeshare property is either free and clear~~  
49 ~~of interests in or liens or encumbrances against the timeshare and timeshare property of any~~  
50 ~~interest holder or the developer has met the requirements of G.S. 93A-57(a).~~



1       (f) An independent escrow agent shall maintain the accounts called for in this section  
2 only in such a manner as to be under the direct supervision and control of the independent escrow  
3 agent. The independent escrow agent shall have a fiduciary duty to each purchaser to maintain  
4 the escrow accounts in accordance with good accounting practices and to release the purchaser's  
5 funds or other property from escrow only in accordance with this section. The independent  
6 escrow agent shall retain all affidavits received pursuant to this section for a period of five years.  
7 Should the independent escrow agent receive conflicting demands for funds or other property  
8 held in escrow that remain unresolved for more than 30 days, the independent escrow agent shall  
9 notify the Commission of the dispute and either promptly submit the matter to arbitration or, by  
10 interpleader or otherwise, seek an adjudication of the matter by court.

11       (g) If the contract of sale does not include the cancellation notice as required by  
12 G.S. 93A-44(a)(12), the owner, in addition to any rights to damages or other relief, is entitled to  
13 void the transfer and receive from the developer all funds paid for the timeshare together with an  
14 amount equal to ten percent (10%) of the sales price of the timeshare not to exceed three thousand  
15 dollars (\$3,000).

16       (h) A timeshare declaration or other instrument establishing or governing a timeshare  
17 program or an underlying timeshare property regime is not an encumbrance for purposes of this  
18 Chapter and does not create a requirement for a subordination and notice to creditors instrument  
19 for purposes of this section from any person.

20       (i) Any developer or independent escrow agent who intentionally fails to comply with  
21 the provisions of this Article concerning the establishment of an escrow account, deposits of  
22 funds into escrow, and withdrawal therefrom is guilty of a Class E felony. The failure to establish  
23 an escrow account or to place funds therein as required in this section is prima facie evidence of  
24 an intentional and purposeful violation of this subsection.

25 **"§ 93A-46. Prizes.**

26       An advertisement of a ~~time share~~ timeshare which includes the offer of a prize or other  
27 inducement shall fully comply with the provisions of Chapter 75 of the General Statutes.

28 **"§ 93A-47. ~~Time shares~~ Timeshare proxies.**

29       No proxy, power of attorney or similar device given by the ~~purchaser~~ owner of a ~~time share~~  
30 timeshare regarding ~~the management of the time share program or its facilities~~ voting in a  
31 timeshare owners' association shall exceed one year in duration, but the same may be renewed  
32 from year to year.

33 **"§ 93A-48. Exchange programs.**

34       (a) If a purchaser is offered the opportunity to subscribe to any exchange program, the  
35 developer shall, except as provided in subsection ~~(b)~~, (b) of this section, deliver to the purchaser,  
36 prior to the execution of (i) any contract between the purchaser and the exchange company, and  
37 (ii) the ~~sales contract~~, contract for sale, at least the following information regarding the exchange  
38 program:

- 39       (1) The name and address of the exchange ~~company~~ company.
- 40       (2) The names of all officers, directors, and shareholders owning five percent  
41       (5%) or more of the outstanding stock of the exchange ~~company~~ company.
- 42       (3) Whether the exchange company or any of its officers or directors has any legal  
43       or beneficial interest in any developer or managing ~~agent~~ entity for any ~~time~~  
44 ~~share~~ timeshare project participating in the exchange program and, if so, the  
45       name and location of the ~~time share~~ timeshare project and the nature of the  
46       ~~interest~~ interest.
- 47       (4) Unless the exchange company is also the developer a statement that the  
48       purchaser's contract with the exchange company is a contract separate and  
49       distinct from the ~~sales contract~~ contract for sale.

- 1 (5) Whether the purchaser's participation in the exchange program is dependent  
2 upon the continued affiliation of the ~~time share~~ timeshare project with the  
3 exchange ~~program;~~program.
- 4 (6) Whether the purchaser's membership or participation, or both, in the exchange  
5 program is voluntary or ~~mandatory;~~mandatory.
- 6 (7) A complete and accurate description of the terms and conditions of the  
7 purchaser's contractual relationship with the exchange company and the  
8 procedure by which changes thereto may be ~~made;~~made.
- 9 (8) A complete and accurate description of the procedure to qualify for and  
10 effectuate ~~exchanges;~~exchanges.
- 11 (9) A complete and accurate description of all limitations, restrictions, or  
12 priorities employed in the operation of the exchange program, including, but  
13 not limited to, limitations on exchanges based on seasonality, unit size, or  
14 levels of occupancy, expressed in ~~boldface~~ conspicuous type, and, in the  
15 event that such limitations, restrictions, or priorities are not uniformly applied  
16 by the exchange program, a clear description of the manner in which they are  
17 ~~applied;~~applied.
- 18 (10) Whether exchanges are arranged on a space available basis and whether any  
19 guarantees of fulfillment of specific requests for exchanges are made by the  
20 exchange ~~program;~~program.
- 21 (11) Whether and under what circumstances an owner, in dealing with the  
22 exchange company, may lose the use and occupancy of the owner's ~~time share~~  
23 timeshare in any properly applied for exchange without being provided with  
24 substitute accommodations by the exchange ~~company;~~company.
- 25 (12) The expenses, fees or range of fees for participation by owners in the exchange  
26 program, a statement whether any such fees may be altered by the exchange  
27 company, and the circumstances under which alterations may be ~~made;~~made.
- 28 (13) The name and address of the site of each ~~time share~~ timeshare project or other  
29 property which is participating in the exchange ~~program;~~program.
- 30 (14) The number of units in each timeshare project or other property participating  
31 in the exchange program which are available for occupancy and which qualify  
32 for participation in the exchange program, expressed within the following  
33 numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and ~~over;~~over.
- 34 (15) The number of owners with respect to each ~~time share~~ timeshare project or  
35 other property which are eligible to participate in the exchange program  
36 expressed within the following numerical groupings, 1-100, 101-249,  
37 250-499, 500-999, and 1,000 and over, and a statement of the criteria used to  
38 determine those owners who are currently eligible to participate in the  
39 exchange ~~program;~~program.
- 40 (16) The disposition made by the exchange company of ~~time shares~~ timeshares  
41 deposited with the exchange program by owners eligible to participate in the  
42 exchange program and not used by the exchange company in effecting  
43 ~~exchanges;~~exchanges.
- 44 (17) The following information which, except as provided in subsection (b) ~~below,~~  
45 of this section, shall be independently audited by a certified public accountant  
46 in accordance with the standards of the Accounting Standards Board of the  
47 American Institute of Certified Public Accountants and reported for each year  
48 no later than July 1, of the succeeding year:
- 49 a. The number of owners enrolled in the exchange program and such  
50 numbers shall disclose the relationship between the exchange

- 1 company and owners as being either fee paying or gratuitous in  
 2 ~~nature;~~nature.
- 3 b. The number of ~~time share~~timeshare projects or other properties  
 4 eligible to participate in the exchange program categorized by those  
 5 having a contractual relationship between the developer or the  
 6 association and the exchange company and those having solely a  
 7 contractual relationship between the exchange company and owners  
 8 ~~directly;~~directly.
- 9 c. The percentage of confirmed exchanges, which shall be the number of  
 10 exchanges confirmed by the exchange company divided by the number  
 11 of exchanges properly applied for, together with a complete and  
 12 accurate statement of the criteria used to determine whether an  
 13 exchange requested was properly applied ~~for;~~for.
- 14 d. The number of ~~time shares~~timeshares or other intervals for which the  
 15 exchange company has an outstanding obligation to provide an  
 16 exchange to an owner who relinquished a ~~time share~~timeshare or  
 17 interval during the year in exchange for a ~~time share~~timeshare or  
 18 interval in any future ~~year;~~and year.
- 19 e. The number of exchanges confirmed by the exchange company during  
 20 the ~~year;~~and year.
- 21 (18) A statement in ~~boldfaced~~conspicuous type to the effect that the percentage  
 22 described in sub-subdivision c. of subdivision (17) of this subsection is a  
 23 summary of the exchange requests entered with the exchange company in the  
 24 period reported and that the percentage does not indicate a purchaser's/owner's  
 25 probabilities of being confirmed to any specific choice or range of choices,  
 26 since availability at individual locations may vary.

27 The purchaser shall certify in writing to the receipt of the information required by this  
 28 subsection and any other information which the Commission may by rule require.

29 (b) The information required by subdivisions ~~(a)(2);~~(2), (3), (13), (14), (15), and (17) of  
 30 subsection (a) of this section shall be accurate as of December 31 of the year preceding the year  
 31 in which the information is delivered, except for information delivered within the first 180 days  
 32 of any calendar year which shall be accurate as of December 31 of the year two years preceding  
 33 the year in which the information is delivered to the purchaser. The remaining information  
 34 required by subsection (a) of this section shall be accurate as of a date which is no more than 30  
 35 days prior to the date on which the information is delivered to the purchaser.

36 (c) In the event an exchange company offers an exchange program directly to the  
 37 purchaser or owner, the exchange company shall deliver to each purchaser or owner, concurrently  
 38 with the offering and prior to the execution of any contract between the purchaser or owner and  
 39 the exchange company the information set forth in subsection (a) ~~above~~of this section. The  
 40 requirements of this ~~paragraph~~subsection shall not apply to any renewal of a contract between  
 41 an owner and an exchange company.

42 (d) All promotional brochures, pamphlets, advertisements, or other materials  
 43 disseminated by the exchange company to purchasers in this State which contain the percentage  
 44 of confirmed exchanges described in ~~(a)(17)e.~~sub-subdivision c. of subdivision (17) of  
 45 subsection (a) of this section must include the statement set forth in ~~(a)(18)~~subdivision (18) of  
 46 subsection (a) of this section.

47 **"§ 93A-49. Service of process on exchange company.**

48 Any exchange company offering an exchange program to a purchaser shall be deemed to  
 49 have made an irrevocable appointment of the Commission to receive service of lawful process  
 50 in any proceeding against the exchange company arising under this Article.

51 **"§ 93A-50. Securities laws apply.**

1 The North Carolina Securities Act, Chapter 78A, shall also apply, in addition to the laws  
2 relating to real estate, to ~~time shares-timeshares~~ deemed to be investment contracts or to other  
3 securities offered with or incident to a ~~time share-timeshare~~; provided, however, in the event of  
4 ~~such the~~ applicability of the North Carolina Securities Act, any offer or sale of ~~time shares~~  
5 ~~timeshares~~ registered under this Article shall not be subject to the provisions of G.S. 78A-24 and  
6 any real estate broker registered under Article 1 of this Chapter shall not be subject to the  
7 provisions of G.S. 78A-36.

8 **"§ 93A-51. Rule-making authority.**

9 The Commission shall have the authority to adopt rules and regulations that are not  
10 inconsistent with the provisions of this Article and the General Statutes of North Carolina. The  
11 Commission may prescribe forms and procedures for submitting information to the Commission.

12 **"§ 93A-52. Application for registration of ~~time share project~~; timeshare program; denial  
13 of registration; renewal; reinstatement; and termination of developer's interest.**

14 (a) Prior to the offering in this State of any ~~time share-timeshare~~ located in this State, the  
15 developer of the ~~time share project-timeshare program~~ shall make written application to the  
16 Commission for the registration of the ~~project-program~~.

17 (a1) The application shall be accompanied by a fee in an amount fixed by the Commission  
18 but not to exceed one thousand five hundred dollars (\$1,500), and shall include (i) a description  
19 of the ~~project-program~~, (ii) copies of proposed ~~time share instruments including public offering~~  
20 ~~statements, sale contracts, deeds, and other documents referred to therein~~, timeshare declaration,  
21 timeshare program governing documents, public offering statement, form timeshare instrument,  
22 form contract for sale, if different than the timeshare instrument, and other documents referred  
23 to in the public offering statement, (iii) information pertaining to any marketing or managing  
24 entity to be employed by the developer for the sale of ~~time shares-timeshares~~ in a ~~time share~~  
25 ~~project or the management of the project~~, timeshare program, (iv) information regarding any  
26 exchange program available to the ~~purchaser-owner~~, (v) an irrevocable appointment of the  
27 Commission to receive service of any lawful process in any proceeding against the developer or  
28 the developer's ~~time share-timeshare~~ salespersons arising under this ~~Article~~, Article, and (vi) such  
29 other information as the Commission may by rule require.

30 (a2) Upon receipt of a properly completed application and fee and upon a determination  
31 by the Commission that the sale ~~and management~~ of the ~~time shares-timeshares~~ in the ~~time share~~  
32 ~~project-timeshare program~~ will be directed and conducted by persons of good moral character,  
33 the Commission shall issue to the developer a certificate of registration authorizing the developer  
34 to offer ~~time shares-timeshares~~ in the ~~project-program~~ for sale. The Commission ~~shall~~ shall,  
35 within ~~45-30~~ days after receipt of an incomplete application, notify the developer by mail that the  
36 Commission has found specified deficiencies, and shall, within ~~45-60~~ days after the receipt of a  
37 properly completed application, either issue the certificate of registration or notify the developer  
38 by mail or by electronic means of any specific objections to the registration of the ~~project~~. The  
39 program. Once issued, the certificate shall be prominently displayed in the office of the developer  
40 on the site of the project, available for inspection upon request of the Commission, and a copy of  
41 the certificate shall be available for inspection by written request from any purchaser or owner.

42 (a3) The developer shall promptly report to the Commission any and all material changes  
43 in the information required to be submitted for the purpose of the registration. The developer  
44 shall also immediately furnish the Commission complete information regarding any change in  
45 its interest in a registered ~~time share project~~. In the event timeshare program, other than the  
46 transfer of timeshares to purchasers in the ordinary course of its business. If a developer disposes  
47 of, or otherwise terminates its interest in a time share project, timeshare program, the developer  
48 shall cease all marketing and sales of timeshares, certify to the Commission in writing that its  
49 interest in the time share project-timeshare program is terminated-terminated, and shall return to  
50 the Commission for cancellation the certificate of registration.

1 (b) ~~In the event~~ If the Commission finds that there is substantial reason to deny the  
2 application for registration as a ~~time share project, timeshare program~~, the Commission shall  
3 notify the ~~applicant developer~~ that such application has been denied and shall afford the ~~applicant~~  
4 ~~developer~~ an opportunity for a hearing before the Commission to show cause why the application  
5 should not be denied. In all proceedings to deny a certificate of registration, the provisions of  
6 Chapter 150B of the General Statutes shall be applicable.

7 (c) The acceptance by the Commission of an application for registration shall not  
8 constitute the approval of its contents or waive the authority of the Commission to take  
9 disciplinary action as provided by this Article.

10 (d) All certificates of registration granted and issued by the Commission under the  
11 provisions of this Article shall expire on the 30th day of June following issuance thereof, and  
12 shall become invalid after ~~such that~~ date unless reinstated. ~~Renewal of such A certificate may be~~  
13 ~~effected at any time during the month of June preceding the date of expiration of such registration~~  
14 ~~upon proper application to the Commission and by the payment of a renewal fee may be renewed~~  
15 45 days prior to the expiration date by filing an application with and paying to the Commission  
16 the timeshare registration renewal fee fixed by the Commission but not to exceed one thousand  
17 five hundred dollars (\$1,500) for each time share project. The developer shall, when making  
18 application for renewal, also provide a copy of the report required in G.S. 93A-48. timeshare  
19 program. Each certificate reinstated after the expiration date thereof shall be subject to a fee of  
20 fifty dollars (\$50.00) in addition to the required renewal fee. ~~In the event a time share~~ If  
21 a developer fails to reinstate the registration within 12 months after the expiration date thereof, the  
22 Commission may, in its discretion, consider the ~~time share project timeshare program~~ as not  
23 having been previously registered, and thereby subject to the provisions of this Article relating  
24 to the issuance of an original certificate. Duplicate certificates may be issued by the Commission  
25 upon payment of a fee of one dollar (\$1.00) by the registrant developer. Except as prescribed by  
26 Commission rules, all fees paid pursuant to this Article shall be nonrefundable.

27 **"§ 93A-53. Register of applicants; roster of registrants; registered projects; financial report**  
28 **to Secretary of State.**

29 (a) The Executive Director of the Commission shall keep a register of all applicants for  
30 certificates of registration, showing for each the date of application, name, business address, and  
31 whether the certificate was granted or refused.

32 (b) The Executive Director of the Commission shall also keep a current roster showing  
33 the name and address of all ~~time share projects timeshare programs~~ registered with the  
34 Commission. The roster shall be kept on file in the office of the Commission and be open to  
35 public inspection.

36 (c) The Commission shall include a copy of the roster of ~~time share projects timeshare~~  
37 programs current on the preceding June 30 and a statement of the income received by the  
38 Commission in connection with the registration of ~~time share projects timeshare programs~~ during  
39 the fiscal year ending on June 30 with the report required by G.S. 93B-2.

40 **"§ 93A-54. Disciplinary action by Commission.**

41 (a) The Commission has power to take disciplinary ~~action.~~ action for violation of the  
42 provisions of this Article in the offering or sale of a timeshare program to a purchaser. Upon its  
43 own motion, or on the ~~verified~~ complaint of any person, the Commission may investigate the  
44 actions of any ~~time share salesperson, developer, or project broker of a time share project~~  
45 ~~registered under this Article, or any other person or entity who shall assume to act in such~~  
46 capacity, regulated party or any other person or entity who shall assume to act in such capacity  
47 of a regulated party. If the Commission finds probable cause that a ~~time share salesperson,~~  
48 ~~developer, or project broker timeshare regulated party~~ has violated any of the provisions of this  
49 Article, the Commission may hold a hearing on the allegations of misconduct.

50 (b) The Commission has the power to suspend or revoke at any time a real estate license  
51 issued to a ~~time share timeshare~~ salesperson or ~~project program~~ broker, or a certificate of

1 registration of a ~~time share project~~timeshare program issued to a developer; or to reprimand or  
2 censure ~~such salesperson, developer, or project broker;~~ a regulated party; or to fine such  
3 ~~developer~~a regulated party in the amount of five hundred dollars (\$500.00) for each violation of  
4 this ~~Article,~~ Article; or to impose any other specified penalty permitted under this Article; if, after  
5 a hearing, the Commission adjudges ~~either the salesperson, developer, or project broker~~regulated  
6 party to be guilty ~~of~~of any of the following:

- 7 (1) Making any willful or negligent misrepresentation or any willful or negligent  
8 omission of material fact about any ~~time share~~timeshare or ~~time share~~  
9 ~~project;~~timeshare program.
- 10 (2) Making any false promises of a character likely to influence, persuade, or  
11 ~~induce;~~induce.
- 12 (3) Pursuing a course of misrepresentation or making of false promises through  
13 agents, salespersons, advertising or ~~otherwise;~~otherwise.
- 14 (4) Failing, within a reasonable time, to account for all money received from  
15 others in a ~~time share~~timeshare transaction, and failing to remit such monies  
16 as may be required in G.S. 93A-45 of this ~~Article;~~Article.
- 17 (5) Acting as a ~~time share salesperson or time share developer~~ in a manner as to  
18 endanger the interest of the ~~public;~~public.
- 19 (6) Paying a commission, salary, or other valuable consideration to any person  
20 for acts or services performed in violation of this ~~Article;~~Article.
- 21 (7) Any other conduct which constitutes improper, fraudulent, or dishonest  
22 ~~dealing;~~dealing.
- 23 (8) Performing or undertaking to perform any legal service as set forth in  
24 G.S. 84-2.1, or any other acts not specifically set forth in that ~~section;~~section.
- 25 (9) Failing to deposit and maintain in a ~~broker's trust or an~~ escrow account as  
26 ~~defined by G.S. 93A-6(g)~~ all money received from others in a ~~time share~~  
27 timeshare transaction as may be required in ~~G.S. 93A-45 of this Article or~~  
28 ~~failing to place with an independent escrow agent the funds of a time share~~  
29 ~~purchaser when required by G.S. 93A-42(e);~~G.S. 93A-42 or G.S. 93A-45.
- 30 (10) Failing to deliver to a purchaser a public offering statement containing the  
31 information required by G.S. 93A-44 and any other disclosures that the  
32 Commission may by regulation ~~require;~~require.
- 33 (11) Failing to comply with the provisions of Chapter 75 of the General Statutes in  
34 the advertising or promotion of ~~time shares~~timeshares for sale, or failing to  
35 assure such compliance by persons engaged on behalf of a  
36 ~~developer;~~developer.
- 37 (12) Failing to comply with the provisions of G.S. 93A-48 in furnishing complete  
38 and accurate information to purchasers concerning any exchange program  
39 which may be offered to such ~~purchaser;~~purchaser or owner.
- 40 (13) Making any false or fraudulent representation on an application for  
41 ~~registration;~~registration.
- 42 (14) Violating any rule or regulation promulgated by the  
43 ~~Commission;~~Commission.
- 44 (15) Failing to record or cause to be recorded a ~~time share~~timeshare instrument as  
45 required by ~~G.S. 93A-42(e);~~G.S. 93A-42(c1) or failing to provide a ~~purchaser~~  
46 an owner the protection against liens required by ~~G.S. 93A-57(a);~~  
47 or G.S. 93A-57(a).
- 48 (16) Failing as a ~~time share project~~timeshare program broker to exercise  
49 reasonable and adequate supervision of the conduct of sales at a project or  
50 location by the brokers and salespersons under the ~~time share project~~  
51 timeshare program broker's control.

1       ~~(a1)~~(c) The clear proceeds of fines collected pursuant to subsection ~~(a)~~-~~(b)~~ of this section  
2 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

3       ~~(b)~~(d) Following a hearing, the Commission shall also have power to suspend or revoke any  
4 certificate of registration issued under the provisions of this Article or to reprimand or censure  
5 any ~~developer-regulated party~~ when the ~~registrant-regulated party~~ has been convicted or has  
6 entered a plea of guilty or no contest upon which final judgment is entered by a court of  
7 competent jurisdiction in this State, or any other state, of the criminal offenses ~~of~~-~~of~~  
8 embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to defraud, or  
9 any other offense involving moral turpitude which would reasonably affect the ~~developer's~~  
10 ~~regulated party's~~ performance in the ~~time-share~~-~~timeshare~~ business.

11       ~~(e)~~(e) The Commission may appear in its own name in superior court in actions for  
12 injunctive relief to prevent any person or entity from violating the provisions of this Article or  
13 rules promulgated by the Commission. The superior court shall have the power to grant these  
14 injunctions even if criminal prosecution has been or may be instituted as a result of the violations,  
15 or regardless of whether the ~~regulated party or person~~ ~~or~~ ~~entity~~ has been registered by the  
16 Commission.

17       ~~(d)~~(f) Each developer shall maintain or cause to be maintained complete records of every  
18 ~~time-share~~-~~timeshare~~ transaction ~~including~~ and each independent escrow agent shall maintain or  
19 ~~cause to be maintained~~ complete records pertaining to the deposit, maintenance, and withdrawal  
20 of money required to be held in a ~~trust or an~~ escrow account, or as otherwise required by the  
21 Commission, under G.S. 93A-45 of this Article. The Commission may inspect these records  
22 periodically without prior notice and may also inspect these records whenever the Commission  
23 determines that they are pertinent to an investigation of any specific complaint against a  
24 ~~registrant~~-~~developer~~ or independent escrow agent.

25       ~~(e)~~(g) When a licensee is accused of any act, omission, or misconduct under this Article  
26 which would subject the licensee to disciplinary action, the licensee may, with the consent and  
27 approval of the Commission, surrender the licensee's license and all the rights and privileges  
28 pertaining to it for a period of time to be established by the Commission. A licensee who  
29 surrenders a license shall not be eligible for, or submit any application for, licensure as a real  
30 estate broker or registration of a ~~time-share~~-~~project~~-~~timeshare~~ program during the period of license  
31 surrender. For the purposes of this section, the term licensee shall include a ~~time-share~~-~~developer~~.

32 **"§ 93A-55. Private enforcement.**

33       The provisions of the Article shall not be construed to limit in any manner the right of a  
34 ~~purchaser~~-~~purchaser~~, ~~owner~~, or other person injured by a violation of this Article to bring a private  
35 action.

36 **"§ 93A-56. Penalty for violation of Article.**

37       Except as ~~provided in G.S. 93A-40(b) and G.S. 93A-58~~, specifically provided elsewhere in  
38 ~~this Article~~, any person violating the provisions of this Article shall be guilty of a Class 1  
39 misdemeanor.

40 **"§ 93A-57. Release of ~~liens~~-liens or subordination and notice to creditors instrument.**

41       (a) Prior to any ~~recordation of the instrument transferring a time share~~, ~~closing~~, the  
42 developer shall record and furnish notice to the purchaser of a release ~~or subordination~~ of all liens  
43 ~~or encumbrances~~ affecting ~~that time share~~, ~~the timeshare being acquired by the purchaser~~ or shall  
44 ~~provide a surety bond or insurance against the lien from a company acceptable to the Commission~~  
45 ~~as provided for liens on real estate in this State~~, or such underlying lien document shall contain  
46 a provision wherein the lienholder subordinates its rights to that of a time share purchaser who  
47 fully complies with all of the provisions and terms of the contract of sale. ~~the timeshare property~~  
48 ~~or comply with one of the following:~~

- 49           (1) If there are any interest holders in the timeshare or timeshare property, the  
50 developer and any interest holders must execute and record a subordination  
51 and notice to creditors instrument in the jurisdiction in which the timeshare or

1 timeshare program is situated. The subordination and notice to creditors  
 2 instrument shall contain the following:

- 3 a. Language sufficient to provide subsequent creditors of the developer  
 4 and interest holder with notice of the existence of the timeshare  
 5 program and of the rights of owners in order to protect the interests of  
 6 the owners from any claims of subsequent creditors.  
 7 b. A statement that the instrument shall be effective as between the owner  
 8 and the developer and interest holder despite any bankruptcy  
 9 proceedings involving the developer.  
 10 c. A statement that so long as an owner remains in good standing with  
 11 respect to the owner's obligations under the timeshare declaration, then  
 12 the interest holder will honor all rights of the owner as reflected in the  
 13 timeshare declaration.

- 14 (2) If there are any interest holders in the timeshare or the timeshare property, the  
 15 developer must make alternative arrangements that are adequate to protect the  
 16 rights of the owners of the timeshares and timeshare property, provided that  
 17 any alternative arrangement is approved by the Commission.

18 (b) Unless a ~~time share~~ timeshare owner or a ~~time share~~ timeshare owner who is his the  
 19 owner's predecessor in title agree otherwise with the lienor, if a lien other than a mortgage or  
 20 deed of trust becomes effective against more than one ~~time share~~ timeshare in a ~~time share~~  
 21 project, timeshare program, any ~~time share~~ timeshare owner is entitled to a release of his time  
 22 share the owner's timeshare from a lien upon payment of the amount of the lien attributable to  
 23 his time share the owner's timeshare. The amount of the payment must be proportionate to the  
 24 ratio that the ~~time share~~ owner's liability bears to the liabilities of all ~~time share~~ owners whose  
 25 interests are subject to the lien. Upon receipt of payment, the lien holder shall promptly deliver  
 26 to the ~~time share~~ owner a release of the lien covering that ~~time share~~ timeshare. After payment,  
 27 the managing agent entity may not assess or have a lien against that ~~time share~~ timeshare for any  
 28 portion of the expenses incurred in connection with that lien.

29 **"§ 93A-58. Registrar required; criminal penalties; project program broker.**

30 (a) Every developer of a ~~registered project~~ shall, by affidavit filed with the Commission,  
 31 designate a natural person to serve as ~~time share~~ timeshare registrar for its registered ~~projects~~.  
 32 timeshare program. The timeshare registrar shall be responsible for the recordation of ~~time share~~  
 33 timeshare instruments and the release of liens required by G.S. 93A-42(c) and G.S. 93A-57(a).  
 34 A developer may, from time to time, change the designated ~~time share~~ timeshare registrar by  
 35 proper filing with the Commission and by otherwise complying with this subsection. No sales or  
 36 offers to sell shall be made until the registrar is designated for a ~~time share project~~ timeshare  
 37 program.

38 (b) The timeshare registrar has the duty to ensure that the provisions of this Article are  
 39 complied with in a ~~time share project~~ timeshare program for which the person is the timeshare  
 40 registrar. No timeshare registrar shall record a ~~time share~~ timeshare instrument except as provided  
 41 by this Article.

42 ~~(b)(c)~~ (c) A ~~time share~~ timeshare registrar is guilty of a Class I felony if he or she the timeshare  
 43 registrar knowingly or recklessly fails to record or cause to be recorded a ~~time share~~ timeshare  
 44 instrument as required by this Article. A person responsible as general partner, corporate officer,  
 45 joint venturer-venturer, or sole proprietor of the developer of a ~~time share~~ timeshare project is  
 46 guilty of a Class I felony if the person intentionally allows the offering for sale or the sale of ~~time~~  
 47 share a timeshare to purchasers without first designating a ~~time share~~ timeshare registrar.

48 ~~(e)(d)~~ (d) The developer shall designate for each ~~project~~ timeshare program and other locations  
 49 where ~~time shares~~ timeshares are sold or offered for sale a ~~project program~~ broker. The ~~project~~  
 50 program broker shall act as supervising broker for all ~~time share~~ timeshare salespersons at the  
 51 ~~project~~ timeshare program or other location and shall directly, personally, and actively supervise



1 all such persons at the ~~project-timeshare program~~ or other ~~location-locations~~ in a manner to  
2 reasonably ensure that the sale of ~~time-shares-timeshares~~ will be conducted in accordance with  
3 the provisions of this Chapter.

4 "**§ 93A-59. Preservation of ~~time-share-purchaser's-an owner's~~ claims and defenses.**

5 (a) For one year following the execution of an instrument of indebtedness for the  
6 purchase of a ~~time-share, timeshare use, the purchaser-of-a time-share-owner~~ may assert against  
7 the ~~seller, developer, assignee of the seller, developer,~~ or other holder of the instrument of  
8 indebtedness, any claims or defenses available against the ~~developer or the original seller, and~~  
9 ~~the purchaser-developer, and the owner~~ may not waive the right to assert these claims or defenses  
10 in connection with a ~~time-share-timeshare~~ purchase. Any recovery by the ~~purchaser-owner~~ on a  
11 claim asserted against an assignee of the ~~seller-developer~~ or other holder of the instrument of  
12 indebtedness shall not exceed the amount paid by the ~~purchaser-developer~~ under the instrument.  
13 A holder shall be the person or entity with the rights of a holder as set forth in G.S. 25-3-301.

14 (b) Every instrument of indebtedness for the purchase of a ~~time-share-timeshare~~ shall set  
15 forth in conspicuous type the following provision in a ~~clear and conspicuous~~  
16 ~~manner:substantially the following form:~~

17  
18 "NOTICE

19  
20 FOR A PERIOD OF ONE YEAR FOLLOWING THE EXECUTION OF THIS  
21 INSTRUMENT OF INDEBTEDNESS, ANY HOLDER OF THIS INSTRUMENT OF  
22 INDEBTEDNESS IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE  
23 ~~PURCHASER-OWNER~~ COULD ASSERT AGAINST THE ~~SELLER-DEVELOPER OF~~  
24 ~~THE TIME-SHARE. TESHARE. RECOVERY BY THE PURCHASER-OWNER~~  
25 SHALL NOT EXCEED AMOUNTS PAID BY THE ~~PURCHASER-OWNER~~ UNDER  
26 THIS INSTRUMENT."

27 "**§ 93A-60. Substantial compliance.**

28 If a developer or managing entity has otherwise substantially complied with this Article, any  
29 nonmaterial errors or omissions shall not be the basis for any claims or defenses asserted by the  
30 purchaser; provided, however, that for purposes of this section, the developer or managing entity  
31 shall have the burden of proof.

32 "**§ 93A-61. Management.**

33 (a) For each timeshare program, the developer shall provide for a managing entity, which  
34 shall be either the developer, a third-party management firm, or timeshare owners' association.

35 (b) The managing entity may not furnish the name, address, electronic mail address, or  
36 contact information of any owner to any person, including any other owner or authorized agent  
37 of an owner, unless the owner whose name, address, electronic mail address, or contact  
38 information is requested first approves the disclosure in writing. The managing entity shall  
39 maintain among its records and provide to the Commission upon request a complete list of the  
40 names and addresses of all owners in the timeshare program. The managing entity shall update  
41 this list at least quarterly. The managing entity may not publish this owners' list or provide a copy  
42 of it to any owner or to any third party other than the Commission. However, the managing entity  
43 shall mail to those owners listed on the owners' list materials provided by any owner, upon the  
44 written request of that owner, if the purpose of the mailing is to advance legitimate business of  
45 the timeshare program, including, but not limited to, a proxy solicitation for any purpose,  
46 including the recall of one or more directors elected by the owners or the discharge of the  
47 management firm. The managing entity shall be responsible for determining the appropriateness  
48 of any requested mailing. The owner who requests the mailing must reimburse the managing  
49 entity in advance for the actual, reasonable costs in performing the mailing. A mailing requested  
50 for the purpose of advancing legitimate business of the timeshare program shall occur within 30  
51 days after receipt of a request from an owner.

1       (c)    The predecessor in interest, or a transfer service provider for the predecessor in  
2 interest, shall deliver to the managing entity a copy of the timeshare instrument, which shall be  
3 a copy of the recorded timeshare instrument if the timeshare is a timeshare estate, together with  
4 the name and mailing address of the successor in interest within 15 days after the date of transfer,  
5 and after such delivery, the successor in interest shall be listed by the managing entity as the  
6 owner of the timeshare on the books and records. The managing entity shall not be liable to any  
7 person for any inaccuracy in the books and records arising from the failure of the predecessor in  
8 interest to timely and correctly notify the managing entity of the name and mailing address of the  
9 successor in interest.

10       (d)    The managing entity shall make the books and records reasonably available for  
11 inspection by any owner or the authorized agent of an owner. The managing entity may charge  
12 the owner a reasonable fee for copying or providing the requested information, however, any  
13 owner or agent of an owner shall be permitted to personally inspect and examine the books and  
14 records wherever located at any reasonable time, under reasonable conditions, and under the  
15 supervision of the custodian of those records. All books and financial records of the timeshare  
16 program must be maintained in accordance with generally accepted accounting practices. The  
17 managing entity may require any owner or authorized agent of an owner to execute and provide  
18 a reasonable confidentiality or nondisclosure agreement prohibiting the disclosure of books and  
19 records to nonowners.

20       (e)    All notices or other information sent by a managing entity may be delivered to an  
21 owner by electronic mail, provided that the owner first consents electronically to the use of  
22 electronic mail for notice purposes. The consent to receive notice by electronic mail is effective  
23 until revoked by the owner.

24       (f)    An officer, director, or agent of a timeshare owners' association shall discharge their  
25 duties in good faith, with the care an ordinarily prudent person in a like position would exercise  
26 under similar circumstances, and in a manner they reasonably believe to be in the interests of the  
27 timeshare owners' association. An officer, director, or agent of a timeshare owners' association  
28 shall be exempt from liability for monetary damages unless the officer, director, or agent  
29 breached or failed to perform their duties and the breach of, or failure to perform, those duties  
30 constitutes a violation of criminal law, constitutes a transaction from which the officer, director,  
31 or agent derived an improper personal benefit, either directly or indirectly, or constitutes  
32 recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner  
33 exhibiting wanton and willful disregard of human rights, safety, or property.

34       (g)    If a state of emergency is declared pursuant to the North Carolina Emergency  
35 Management Act or by any governmental agency with authority in the locale in which timeshare  
36 property is located, then the following apply:

37           (1)   The managing entity may, but is not required to, exercise the following  
38 powers:

39           a.    Conduct board meetings and owner meetings with notice given in any  
40 practicable manner, including publication, radio, conspicuous posting  
41 on the timeshare property, electronic means, or any other means the  
42 board deems reasonable under the circumstances. Notice of board  
43 decisions may be communicated in the same manner as notice of the  
44 meetings is given.

45           b.    Cancel and reschedule any timeshare owners' association meeting.

46           c.    Name as assistant officers persons who are not directors of the board.  
47 Named assistant officers shall have the same authority as the executive  
48 officers to whom they are assistants during the state of emergency to  
49 accommodate the incapacity or unavailability of any officer of the  
50 timeshare owners' association.

- 1           d. Relocate the managing entity's principal office or designate alternative  
2           principal offices or conduct business remotely.
- 3           e. Enter into agreements with government agencies to assist in  
4           responding to the emergency.
- 5           f. Implement an emergency plan for which a state of emergency is  
6           declared. The emergency plan may include, but is not limited to,  
7           shutting down all or any portion of timeshare units, amenities, or  
8           timeshare projects, including shutting off systems or utilities.
- 9           g. Determine that all or any portion of the timeshare property is  
10          unavailable for entry or occupancy by owners or any other person to  
11          protect the health, safety, or welfare of owners or persons or to  
12          properly respond to the emergency. Should any person enter or occupy  
13          the timeshare property when the board has declared the timeshare  
14          property is unavailable for entry or occupancy for those persons, and  
15          without board approval, the board and the association shall be immune  
16          from liability or injury to persons or property arising from that failure  
17          or refusal.
- 18          h. Require occupancy of timeshare units to be aggregated in certain parts  
19          of the timeshare property even if other parts of the timeshare property  
20          are habitable.
- 21          i. Require the evacuation of all or any portion of the timeshare property  
22          in the event of a mandatory evacuation order or in order to respond to  
23          the emergency. Should any person fail or refuse to evacuate the  
24          timeshare property where the board has required evacuation, the board  
25          and the association shall be immune from liability or injury to persons  
26          or property arising from that failure or refusal.
- 27          j. Make a determination whether all or any portion of the timeshare  
28          property can be safely inhabited or occupied; provided, however, any  
29          determination is not conclusive as to any determination of habitability  
30          pursuant to applicable law or the timeshare declaration.
- 31          k. Temporarily suspend or modify rules and regulations concerning the  
32          physical use of all or any portion of the timeshare property.
- 33          l. Mitigate further damage, including taking action to contract for the  
34          removal of debris and to prevent or mitigate the spread of fungus or  
35          disease notwithstanding timeshare declaration provisions regarding  
36          owner approval of changes to the timeshare units or amenities.
- 37          m. Regardless of any provision to the contrary and even if such authority  
38          does not specifically appear in the timeshare declaration, levy special  
39          assessments without a vote of the owners.
- 40          n. Without owners' approval, borrow money and pledge association  
41          assets as collateral to fund emergency repairs, to respond to the  
42          emergency, or to carry out the duties of the association when operating  
43          funds are insufficient.
- 44          o. Temporarily suspend or modify timeshare program reservation system  
45          rules and regulations to manage owner reservations and use rights in  
46          the best interests of the owners as a whole, including cancelling  
47          existing reservations, extending expiring use rights, or suspending or  
48          modifying priority periods and priority reservation rights. A temporary  
49          suspension or modification shall be permitted even if owners must  
50          compete for reservation and use of timeshare periods and timeshare  
51          units on a more than one-to-one use night to use right ratio.

1 p. Toll the expiration of any claim of lien arising under  
2 G.S. 93A-62(d)(4) for the duration of the state of emergency, provided  
3 that the beginning and ending dates for each period of tolling are  
4 recorded in the public records and the owner is notified of the end of  
5 the tolling period.

6 q. Modify or suspend assessment and collection requirements and  
7 activity, including deferring due dates or waiving late charges and  
8 interest, provided that all owners are treated equally as of the date of  
9 modification and suspension, and owners who have previously made  
10 timely payments have their future assessments adjusted in a manner  
11 that fairly compensates them for making timely payments in advance  
12 of the modification or suspension.

13 (2) The emergency powers authorized and exercised shall be limited to that time  
14 reasonably necessary to protect the health, safety, and welfare of the managing  
15 entity and the owners and reasonably necessary to mitigate further damage  
16 and make emergency repairs, notwithstanding the termination of the state of  
17 emergency. Further, the managing entity may take any actions that are  
18 necessary to implement the exercised powers even if the implementation takes  
19 place after the termination of the state of emergency, provided that the  
20 implementation is necessary and does not go beyond the scope of the  
21 exercised power.

22 (3) In the exercise of emergency powers, the managing entity may take into  
23 account the economic consequences of the emergency to the owners; however,  
24 the managing entity shall give greater weight to the health, safety, and welfare  
25 of the managing entity and the owners and mitigation of further damage and  
26 adhere to the business judgment rule in balancing economic considerations  
27 with owner opportunity to enjoy the use of the timeshare property.

28 (4) In the exercise of the emergency powers, the managing entity will be deemed  
29 to have met any duty of care if the managing entity has relied upon advice of  
30 emergency management officials or upon the advice of licensed professionals  
31 with applicable expertise.

32 **"§ 93A-62. Delinquent assessments; developer guarantee.**

33 (a) Delinquent assessments may bear interest at the highest rate permitted by law or at  
34 some lesser rate established by the managing entity. In addition to interest, the managing entity  
35 may charge a reasonable administrative late fee for each delinquent assessment. Any costs of  
36 collection, including reasonable collection agency fees and reasonable attorney's fees, incurred  
37 in the collection of a delinquent assessment shall be paid by the owner and shall be secured by a  
38 lien in favor of the managing entity upon the timeshare with respect to which the delinquent  
39 assessment has been incurred.

40 (b) The managing entity may deny the use of the timeshare units or facilities, including  
41 the denial of the right to make a reservation or the cancellation of a confirmed reservation for  
42 timeshare periods, to any owner who is delinquent in the payment of any assessments made by  
43 the managing entity against the owner for common expenses, in accordance with the following:

44 (1) The managing entity must, no less than 30 days after the date the assessment  
45 is due, notify the owner in writing of the total amount of any delinquency  
46 which then exists, including any accrued interest and late charges permitted  
47 to be imposed under the terms of the timeshare program or by law and  
48 including a per diem amount. The notice shall be sent to the owner at the  
49 owner's known address as recorded in the books and records of the timeshare  
50 program.

- 1           (2)    The notice shall clearly state that the owner will not be permitted to use the  
2           owner's timeshare, that the owner will not be permitted to make a reservation  
3           in the timeshare program's reservation system, or that any confirmed  
4           reservation may be canceled until the total amount of such delinquency is  
5           satisfied in full or until the owner produces satisfactory evidence that the  
6           delinquency does not exist.
- 7           (3)    The notice shall be effective to bar the use of the owner and those claiming  
8           use rights under the owner, including the owner's guests, lessees, and persons  
9           receiving use rights in the timeshare through an exchange program; provided,  
10          however, that (i) a managing entity desiring to deny the use of the timeshare  
11          to persons receiving use rights in the delinquent owner's timeshare through an  
12          exchange program that has an affiliation agreement with the managing entity  
13          shall notify the affiliated exchange company in writing of the denial of use at  
14          the time that the notice was sent to the owner and (ii) any person claiming  
15          through the affiliated exchange program who has received a confirmed  
16          assignment of the delinquent owner's use rights from the affiliated exchange  
17          company prior to the expiration of 48 hours after the receipt by the affiliated  
18          exchange company of the written notice from the managing entity shall be  
19          permitted by the managing entity to use the owner's use rights.
- 20          (4)    Any costs reasonably incurred by the managing entity in connection with its  
21          compliance with the requirements of this section may be assessed by the  
22          managing entity against the delinquent owner and collected in the same  
23          manner as if those costs were common expenses of the timeshare program  
24          allocable solely to the delinquent purchaser.
- 25          (5)    A managing entity may not enforce the denial of use against any one owner  
26          or group of owners without similarly enforcing it against all owners, including  
27          all developers.
- 28          (c)    In addition to the denial of use pursuant to subsection (b) of this section, the managing  
29          entity may give further notice to the delinquent owner that the managing entity may rent the  
30          delinquent owner's timeshare, or any use rights appurtenant thereto, in accordance with the  
31          following:
- 32               (1)    A further notice of intent to rent must be given no less than 30 days after the  
33               date the assessment is due and must be delivered to the purchaser in the  
34               manner required for notices under subsection (b) of this section.
- 35               (2)    The notice shall state that unless the owner satisfies the delinquency in full, or  
36               unless the owner produces satisfactory evidence that the delinquency does not  
37               exist, the purchaser will be bound by the terms of any rental contract entered  
38               into by the managing entity with respect to the owner's timeshare or  
39               appurtenant use rights.
- 40               (3)    The notice shall state that the owner will remain liable for any difference  
41               between the amount of the delinquency and the net amount produced by the  
42               rental contract and applied against the delinquency, and the managing entity  
43               shall not be required to provide any further notice to the owner regarding any  
44               residual delinquency.
- 45               (4)    The managing entity's efforts to secure a rental shall not commence on a date  
46               earlier than 10 days after the date of the notice of intent to rent.
- 47               (5)    The managing entity must apply the proceeds of any rental, net of any rental  
48               commissions, cleaning charges, travel agent commissions, or any other  
49               commercially reasonable charges reasonably and usually incurred by the  
50               managing entity in securing rentals to the delinquent owner's account.

1           (6) A managing entity may make a reasonable determination regarding the  
2 priority of rentals of timeshares and, if the delinquent owner whose timeshare  
3 is rented cannot be specifically determined due to the structure of the  
4 timeshare program, the managing entity may allocate any net rental proceeds  
5 in any reasonable manner.

6           (7) In securing a rental, the managing entity shall not be required to obtain the  
7 highest nightly rental rate available, nor any particular rental rate, and the  
8 managing entity shall not be required to rent the entire timeshare or  
9 appurtenant rights; however, the managing entity must use reasonable efforts  
10 to secure a rental that is commensurate with other rentals of similar timeshares  
11 or use rights generally secured at that time.

12           (d) For timeshare estates located in this State, the managing entity shall have a lien on a  
13 timeshare for any assessment levied against that timeshare from the date such assessment  
14 becomes due. The managing entity shall also have a lien on a timeshare estate of any owner for  
15 the cost of any maintenance, repairs, or replacement resulting from an act of the owner or the  
16 owner's guest or lessee that results in damage to the timeshare property. All of the following  
17 apply to a lien imposed under this section:

18           (1) The managing entity, or the holder of the lien, may bring a judicial action in  
19 its name to foreclose the lien in the nature of an action to foreclose a mortgage  
20 or deed of trust and may also bring an action to recover a money judgment for  
21 the unpaid assessments without waiving any claim of lien. As an alternative  
22 to initiating a judicial action, the managing entity may initiate a nonjudicial  
23 foreclosure proceeding to foreclose the assessment lien.

24           (2) The lien is effective from the date of and shall relate back to the recording of  
25 the original timeshare declaration, or, in the case of lien on a timeshare located  
26 in a phase timeshare program, the last to occur of the recording of the original  
27 timeshare declaration or amendment creating the timeshare. However, as to  
28 first mortgages of record, the lien is effective from and after filing of the claim  
29 of lien in the office of the clerk of superior court in the county where the  
30 timeshare estate is located.

31           (3) The claim of lien shall state the name of the timeshare program and identify  
32 the timeshare for which the lien is effective, state the name of the owner, state  
33 the assessment amount due, and state the due dates. The claim of lien shall be  
34 signed and acknowledged by an officer or agent of the managing entity or the  
35 holder.

36           (4) The lien shall expire upon the earlier of:

37           a. The date it is satisfied.

38           b. Five years from the date the claim of lien is filed unless an action to  
39 enforce the lien is commenced within that time.

40           (5) A claim of lien for assessments may include assessments which are due when  
41 the claim is recorded and all assessments that subsequently become due and  
42 are delinquent. Upon full payment, the person making the payment is entitled  
43 to receive a satisfaction of the lien.

44           (6) A judgment in any action or suit brought to foreclose the claim of lien may  
45 include costs and reasonable attorney's fees for the substantially prevailing  
46 party.

47           (e) A successor in interest, regardless of how the timeshare has been acquired, including  
48 a purchaser at a judicial sale or foreclosure trustee sale, is jointly and severally liable with their  
49 predecessor in interest for all unpaid assessments against the predecessor up to the time of  
50 transfer of the timeshare to a successor, without prejudice to any right a successor in interest may  
51 have to recover from their predecessor in interest any amounts assessed against the predecessor

1 and paid by the successor; provided, however, a first mortgagee or its successor or assignee who  
2 acquires title to a timeshare as a result of the foreclosure of the mortgage or by deed in lieu of  
3 foreclosure of the mortgage shall be exempt from liability for all unpaid assessments attributable  
4 to the timeshare or chargeable to the previous owner which came due prior to acquisition of title  
5 by the first mortgagee.

6 (f) If the developer agrees to guarantee the level of assessments for the timeshare  
7 program for any period of time, the developer may be excused from the payment of the  
8 developer's share of the assessments that otherwise would have been assessed against  
9 developer-owned timeshares during the guarantee period, provided that the developer guarantees  
10 that (i) during the guarantee period the assessments against owner timeshares will not increase  
11 over the dollar amount stated in the adopted, good-faith budget of the timeshare program and (ii)  
12 the developer will pay any amount by which all common expenses incurred during the guarantee  
13 period exceed the total revenues of the timeshare program during the guarantee period.

14 **"§ 93A-63. Reservation systems.**

15 (a) The developer shall describe in the timeshare declaration any creation of a reservation  
16 system and shall establish rules and regulations for its operation. In establishing these rules and  
17 regulations, the developer shall take into account the location and anticipated relative use demand  
18 of each timeshare unit and timeshare project component site that is included in the timeshare  
19 program and, the developer shall use its best efforts, in good faith and based upon all reasonably  
20 available evidence under the circumstances, to further the best interests of the owners as a whole  
21 with respect to their opportunity to use and enjoy the timeshare units.

22 (b) The rules and regulations shall also provide for periodic adjustment or amendment of  
23 the reservation system by the reservation system operator from time to time in order to respond  
24 to actual owner use patterns and changes in owner use demand for the timeshare units existing at  
25 that time within the timeshare program. In addition to any other rights granted by the rules and  
26 regulations of the timeshare program, the reservation system operator is authorized to manage  
27 the reservation and use of the timeshare program using those processes, analyses, procedures,  
28 and methods that are in the best interests of the owners as a whole to efficiently manage the  
29 timeshare program.

30 (c) The reservation system operator shall have the right to forecast anticipated reservation  
31 and use of the timeshare units, including the right to take into account current and previous  
32 reservation and use of the timeshare units, information about events that are scheduled to occur,  
33 seasonal use patterns, and other pertinent factors that affect the reservation or use of the timeshare  
34 program.

35 (d) The reservation system operator is authorized to reserve timeshare periods and  
36 timeshare units, in the best interests of the owners as a whole, for the purposes of depositing any  
37 reserved use with an affiliated exchange program or renting any reserved timeshare periods or  
38 timeshare units in order to facilitate the use or future use of the timeshare period or timeshare  
39 units or other benefits made available through the timeshare program to owners.

40 (e) If the reservation system operator is not the timeshare owners' association, the  
41 following provisions shall apply with respect to termination of the reservation system operator's  
42 management agreement or reservation agreement:

- 43 (1) No later than 90 days after the date of termination, or another date as set forth  
44 in the applicable management agreement or reservation agreement, the  
45 terminated reservation system operator shall transfer to the timeshare owners'  
46 association, or any designated successor reservation system operator, all  
47 relevant data held by the prior reservation system operator and related to any  
48 reservation system and any other records and information as is necessary to  
49 permit the uninterrupted operation and administration of the reservation  
50 system. However, the information required to be transferred does not include

1 private information of the terminated reservation system operator that is not  
2 directly related to operation and management of the timeshare program.

3 (2) All reasonable costs incurred by the terminated reservation system operator in  
4 effecting the transfer of information shall be reimbursed to the terminated  
5 reservation system operator as a common expense of the timeshare program  
6 within 10 days after the completed transfer of the information.

7 (3) Nothing contained in this section shall preclude a reservation system operator  
8 from providing in its agreement with the timeshare owners' association or in  
9 the timeshare declaration that the reservation system operator owns the  
10 reservation system and that the reservation system operator shall continue to  
11 own the reservation system in the event that it is terminated.

12 **"§ 93A-64. Multisite timeshare program additions, substitutions, and deletions.**

13 (a) With respect to addition of timeshare units, amenities, or timeshare projects to the  
14 multisite timeshare program, the timeshare declaration must provide for the following:

15 (1) The basis upon which new timeshare units, amenities, or timeshare projects  
16 may be added, by whom additions may be made, and the fiscal impact, if any,  
17 of any additions on the owners.

18 (2) The extent, if any, to which owners will have the right to consent to any  
19 proposed additions.

20 (3) The person authorized to make additions during the term of the multisite  
21 timeshare program must comply with the one-to-one use right to use right  
22 ratio and the requirements of G.S. 93A-63 in ascertaining the desirability of  
23 the proposed addition and any impact of the proposed addition upon the  
24 demand for and availability of existing timeshare units, amenities, or  
25 timeshare projects.

26 (b) With respect to substitution of timeshare units, amenities, or timeshare projects for  
27 existing timeshare units, amenities, or timeshare projects in a multisite timeshare program, the  
28 timeshare declaration must provide for the following:

29 (1) The basis upon which timeshare units, amenities, or timeshare projects may  
30 be substituted for existing timeshare units, amenities, or timeshare projects,  
31 by whom substitutions may be made, and the fiscal impact, if any, of any  
32 substitutions on the owners.

33 (2) The replacement timeshare units, amenities, or timeshare projects must  
34 provide owners with an opportunity to enjoy a substantially similar or  
35 improved vacation experience as compared to the experience available at the  
36 replaced timeshare units, amenities, or timeshare projects. In determining  
37 whether the replacement timeshare units, amenities, or timeshare projects will  
38 provide a substantially similar or improved vacation experience, all relevant  
39 factors may be considered, including, but not limited to, some or all of the  
40 following: size; capacity; furnishings; maintenance; location, including  
41 geographic, topographic, and scenic considerations; demand and availability  
42 for owner use; and recreational capabilities.

43 (3) If a timeshare owned by the owner in a multisite timeshare program is a  
44 timeshare estate in a specific timeshare unit, no substitution may be made of  
45 that timeshare unit without the approval of that owner and all other owners of  
46 timeshare estates in that timeshare unit.

47 (4) If the timeshare declaration provides that the developer, acting unilaterally, or  
48 a managing entity under common ownership or control with the developer is  
49 the person who is authorized to make substitutions, the developer or managing  
50 entity may not substitute available timeshare units in the multisite timeshare  
51 program in a given calendar year pursuant to this subsection if the amount of



- 1           the substituted timeshare units provides more than ten percent (10%) of the  
2           total annual use availability in the multisite timeshare program calculated in  
3           seven-day increments.
- 4           (5)   If the timeshare declaration provides that the managing entity is the person  
5           authorized to make substitutions, and the managing entity is not under  
6           common ownership or control with the developer, the managing entity may  
7           not substitute available timeshare units in the multisite timeshare program in  
8           a given calendar year pursuant to this subsection if the amount of the  
9           substituted timeshare units provides more than twenty-five percent (25%) of  
10           the total annual use availability in the multisite timeshare program calculated  
11           in seven-day increments.
- 12           (6)   If the owners have the right to consent to any proposed substitutions, and the  
13           person authorized to make substitutions receives, within 21 days after the date  
14           of the notice of substitution required by this subsection, a written objection to  
15           the proposed substitution from at least ten percent (10%) of all owners in the  
16           multisite timeshare program, a meeting of the owners must be conducted by  
17           the managing entity within 30 days after the end of the 21-day period. The  
18           proposed substitution is ratified unless it is rejected by a majority of owners  
19           voting in person or by proxy at the meeting, provided that at least twenty-five  
20           percent (25%) of all owners cast votes.
- 21           (7)   The person authorized to make substitutions may make unlimited  
22           substitutions in a given year if a proposed substitution is approved in advance  
23           by a majority of owners of the multisite timeshare program voting in person  
24           or by proxy at a meeting called for that purpose, provided that at least  
25           twenty-five percent (25%) of the total number of owners cast votes.
- 26           (8)   The person authorized to make substitutions shall notify all owners of the  
27           multisite timeshare program in writing of the decision to make a substitution.  
28           This notice must meet all of the following requirements:
- 29           a.     The notice must be given at least six months in advance of the date  
30           that the proposed substitution will occur.
- 31           b.     The notice must state the last day after the end of the six-month period  
32           on which reservations will be accepted from owners for use of the  
33           existing timeshare units that will be replaced.
- 34           c.     The notice must state that owners shall have 21 days after the date of  
35           the notice of substitution to file a written objection with the person  
36           authorized to make substitutions.
- 37           (9)   The person authorized to make substitutions may remove existing timeshare  
38           units for substitution only after those timeshare units have no pending  
39           purchaser use reservations.
- 40           (10)   The person authorized to make substitutions must comply with the one-to-one  
41           use night to use right ratio and the requirements of G.S. 93A-63 in ascertaining  
42           the desirability of the proposed substitution and its impact upon the demand  
43           for and availability of existing timeshare units, amenities, or timeshare  
44           projects.
- 45           (c)   With respect to deletion of timeshare units, amenities, or timeshare projects, the  
46           timeshare declaration must provide for the following:
- 47           (1)   If the deletion is as a result of a casualty, the following apply:
- 48           a.     The timeshare declaration must provide for casualty insurance for the  
49           timeshare units or amenities in an amount equal to the replacement  
50           cost of those timeshare units or amenities. The timeshare declaration  
51           must also provide that in the event of a casualty that results in

- 1 timeshare units, amenities, or timeshare projects being unavailable for  
2 use by owners, the managing entity shall notify all affected owners of  
3 the unavailability of use within 30 days after the event of casualty.
- 4 b. The timeshare declaration must also provide for the application of any  
5 insurance proceeds arising from a casualty to either the replacement or  
6 acquisition of additional similar timeshare units or to the removal of  
7 owners from the multisite timeshare program so that owners will not  
8 be competing for available timeshare units or amenities on a greater  
9 than one-to-one use night to use right ratio.
- 10 c. If the timeshare instrument does not provide for business income  
11 insurance, or if it is unavailable, or if the declaration permits the  
12 developer, the managing entity, or the owners to elect not to  
13 reconstruct after casualty under certain circumstances or to secure  
14 replacement timeshare units in lieu of reconstruction, owners may  
15 temporarily compete for available accommodations on a greater than  
16 one-to-one use night to use right ratio. The decision whether or not to  
17 reconstruct shall be made as promptly as possible under the  
18 circumstances.
- 19 d. Any replacement of timeshare units, amenities, or timeshare projects  
20 must comply with the one-to-one use night to use right ratio and the  
21 requirements of G.S. 93A-63 in ascertaining the desirability of the  
22 proposed addition and its impact upon the demand for and availability  
23 of existing timeshare units, amenities, or timeshare projects.
- 24 (2) If the deletion is as a result of an eminent domain proceeding, the following  
25 apply:
- 26 a. The timeshare declaration must provide for the application of any  
27 proceeds arising from a taking under eminent domain proceedings to  
28 either the replacement or acquisition of additional similar timeshare  
29 units or to the removal of owners so that owners will not be competing  
30 for available timeshare units on a greater than one-to-one use night to  
31 use right requirement ratio.
- 32 b. Any replacement of timeshare units, amenities, or timeshare projects  
33 must comply with the one-to-one use night to use right ratio and the  
34 requirements of G.S. 93A-63 in ascertaining the desirability of the  
35 proposed addition and its impact upon the demand for and availability  
36 of existing timeshare units, amenities, or timeshare projects.
- 37 (3) The timeshare declaration may provide that timeshare units, amenities, or  
38 timeshare projects will be deleted upon the expiration of the term of their  
39 availability or as otherwise provided in the timeshare declaration. However,  
40 the timeshare declaration must also provide that if a timeshare unit is deleted  
41 in this manner, a sufficient number of owners will also be deleted, or a  
42 sufficient number of substitute timeshare units will be substituted for the  
43 deleted timeshare units, so as to maintain no greater than a one-to-one use  
44 night to use right ratio.
- 45 **§ 93A-65. Resale purchase contracts; prohibition against advance listing fee.**
- 46 (a) A consumer timeshare reseller, or any agent of a reseller, must use a resale purchase  
47 contract which must contain all of the following:
- 48 (1) An identification of the timeshare.
- 49 (2) The name and address of the timeshare program and of the managing entity  
50 of the timeshare program.

1           (3) Immediately prior to the disclosure required by subdivision (5) of this  
2 subsection, a statement in conspicuous type in substantially the following  
3 form:

4 "The current year's assessment allocable to the timeshare you are purchasing  
5 is [insert amount]. This assessment, which may be increased from time to time  
6 by the managing entity of the timeshare program, is payable in full each year  
7 on or before [insert date]. This assessment [includes/does not include] yearly  
8 real estate taxes, which [are/are not] billed and collected separately. Each  
9 owner is personally liable for the payment of assessments, and failure to  
10 timely pay these assessments may result in restriction or loss of your use or  
11 ownership rights. There are many important documents relating to the  
12 timeshare program which you should review prior to purchasing a timeshare,  
13 including the timeshare declaration, the timeshare owners' association articles  
14 and bylaws, the current year's operating and reserve budgets, and any rules  
15 and regulations affecting the use of timeshare units and amenities."

16           (4) If there are any delinquent assessments or real estate taxes outstanding with  
17 respect to the timeshare, the following statement must be included in the  
18 statement described in subdivision (3) of this subsection:

19 "A delinquency in the amount of [insert amount] for unpaid assessments or  
20 real estate taxes currently exists with respect to the timeshare you are  
21 purchasing, together with a per diem charge of [insert amount] for interest and  
22 late charges."

23           (5) A statement in conspicuous type located immediately prior to the space in the  
24 contract reserved for the signature of the purchaser in the following form:

25 "You may cancel this contract without any penalty or obligation within five  
26 days after the date you sign this contract. If you decide to cancel this contract,  
27 you must notify the seller in writing of your intent to cancel. Your notice of  
28 cancellation shall be effective upon the date sent and shall be sent to the seller  
29 at [insert address]. Any attempt to obtain a waiver of your cancellation right  
30 is void and of no effect. While you may execute all closing documents in  
31 advance, the closing before expiration of your five-day cancellation period is  
32 prohibited."

33           (6) The year in which the purchaser will first be entitled to reserve, use, or occupy  
34 a timeshare unit.

35           (b) If a resale purchase contract is not used or does not comply with the provisions of this  
36 section, the transaction shall be voidable at the option of the purchaser for a period of one year  
37 after the date of transfer.

38           (c) It is unlawful for any resale broker to collect any advance fee for the listing of any  
39 timeshare.

40 **"§ 93A-66. Record keeping by resale service providers, transfer service providers, and lead**  
41 **dealers.**

42 Resale service providers, lead dealers, and transfer service providers shall maintain the  
43 following records for a period of three years from the date each piece of personal contact  
44 information is obtained:

45           (1) A copy of all pieces of personal contact information obtained.

46           (2) Resale service providers, transfer service providers, and lead dealers who  
47 receive personal contact information from other lead dealers shall maintain  
48 records disclosing:

49           a. The full name, address, and telephone number of the lead dealer from  
50 which the personal contact information was obtained.

1                    b. The date, time, and place of the transaction at which the personal  
2                    contact information was obtained, along with the amount of  
3                    consideration paid and a signed receipt from the lead dealer or copy of  
4                    a canceled check.

5                    (3) Resale service providers, transfer service providers, and lead dealers who  
6                    obtained personal contact information by directly researching and assembling  
7                    such information and did not obtain such information from a lead dealer shall  
8                    maintain records disclosing:

9                    a. A complete written description of the source from which each piece of  
10                    personal contact information was obtained.

11                    b. The methodologies used for researching and assembling the personal  
12                    contact information.

13                    c. The date, time, and place at which the piece of personal contact  
14                    information was obtained.

15                    d. The full name, address, and telephone number of each person who  
16                    performed the work to obtain the piece of personal contact  
17                    information.

18                    **§ 93A-67. Resale service providers.**

19                    (a) Before engaging in resale advertising services, a resale service provider must provide  
20                    to the consumer timeshare reseller in writing (i) a description of any fees or costs related to the  
21                    services that the consumer timeshare reseller, or any other person, is required pay to the resale  
22                    service provider or to any third party and (ii) a description of when the fees or costs are due.

23                    (b) A resale service provider may not engage in real estate broker activities described in  
24                    Article 1 of this Chapter without being the holder of an active license in accordance with Article  
25                    1 of this Chapter.

26                    (c) In the course of offering resale advertising services, a resale advertiser may not do  
27                    any of the following:

28                    (1) State or imply that the resale advertiser will provide or assist in providing any  
29                    type of direct sales or resale brokerage services other than the advertising of  
30                    the consumer resale timeshare for sale or rent by the consumer timeshare  
31                    reseller.

32                    (2) State or imply to a consumer timeshare reseller, directly or indirectly, that the  
33                    resale advertiser has identified a person interested in buying or renting the  
34                    timeshare resale interest without providing the name, address, and telephone  
35                    number of the represented interested resale purchaser.

36                    (3) State or imply to a consumer timeshare reseller, directly or indirectly, that  
37                    sales or rentals have been achieved or generated as a result of its advertising  
38                    services unless the resale advertiser, at the time of making that representation,  
39                    possesses and is able to provide documentation to substantiate the statement  
40                    or implication made to the consumer timeshare reseller. In addition, to the  
41                    extent that a resale advertiser states or implies to a consumer timeshare reseller  
42                    that the resale advertiser has sold or rented any specific number of timeshares,  
43                    the resale advertiser must also provide the consumer timeshare reseller the  
44                    ratio or percentage of all the timeshares that have resulted in a sale versus the  
45                    number of timeshares advertised for sale by the resale advertiser for each of  
46                    the previous two calendar years if the statement or implication is about a sale  
47                    or sales, or the ratio or percentage of all the timeshares that have actually  
48                    resulted in a rental versus the number of timeshares advertised for rental by  
49                    the resale advertiser for each of the previous two calendar years if the  
50                    statement or implication is about a rental or rentals.

- 1           (4)    State or imply to a consumer timeshare reseller that the timeshare has a  
2               specific resale value.
- 3           (5)    Make or submit any charge to a consumer timeshare reseller's credit card  
4               account, make or cause to be made any electronic transfer of consumer  
5               timeshare reseller funds, or collect any payment from a consumer timeshare  
6               reseller that exceeds an aggregate total amount of seventy-five dollars  
7               (\$75.00) or more in any 12-month period unless the following have occurred:  
8               a.       The consumer timeshare reseller has been provided a copy of the terms  
9                     and conditions of the contract for resale advertising services and the  
10                consumer timeshare reseller has agreed to those terms and conditions  
11                by mail or electronic transmission.
- 12               b.       The resale advertiser has received a written contract complying in all  
13                respects with this section and that has been signed by the consumer  
14                timeshare reseller.
- 15           (6)    Engage in any resale advertising services for compensation or other valuable  
16               consideration without first obtaining a written brokerage agreement to provide  
17               resale advertising services signed by the consumer timeshare reseller.  
18               Notwithstanding any other law to the contrary, the contract must be printed in  
19               at least 12-point type and must contain the following information:  
20               a.       The name, address, telephone number, and internet address, if any, of  
21                the resale advertiser and a mailing address and email address to which  
22                a contract cancellation notice may be delivered at the consumer  
23                timeshare reseller's election.
- 24               b.       A complete description of all resale advertising services to be  
25                provided, including, but not limited to, details regarding the  
26                publications, internet sites, and other media in or on which the  
27                consumer resale timeshare will be advertised; the dates or time  
28                intervals for such advertising or the minimum number of times such  
29                advertising will be run in each specific medium; the itemized cost to  
30                the consumer timeshare reseller of each resale advertising service to  
31                be provided; and a statement of the total cost to the consumer  
32                timeshare reseller of all resale advertising services to be provided.
- 33               c.       A statement printed in conspicuous type immediately preceding the  
34                space in the contract provided for the consumer timeshare reseller's  
35                signature in substantially the following form:  
36                        "Timeshare Owner's Right of Cancellation  
37                        [Insert name of resale advertiser] will provide resale advertising  
38                        services pursuant to this contract. If the resale advertiser represents  
39                        that they have identified a person who is interested in purchasing or  
40                        renting your timeshare, then the resale advertiser must provide you  
41                        with the name, address, and telephone number of such represented  
42                        interested resale purchaser.  
43                        You have an unwaivable right to cancel this contract for any reason  
44                        within five days after the date you sign this contract. If you decide to  
45                        cancel this contract, you must notify [insert name of resale advertiser]  
46                        in writing of your intent to cancel. Your notice of cancellation shall be  
47                        effective upon the date sent and shall be sent to [insert resale  
48                        advertiser's physical address] or to [insert resale advertiser's email  
49                        address]. Your refund will be made within 20 days after receipt of  
50                        notice of cancellation or within five days after receipt of funds from  
51                        your cleared check, whichever is later.

You are not obligated to pay [insert name of resale advertiser] any money unless you sign this contract and return it to the retail advertiser.

Important: Before signing this contract, you should carefully review your original purchase document and other timeshare program documents to determine whether the developer has reserved a right of first refusal or other option to purchase your timeshare or to determine whether there are any restrictions or special conditions applicable to the resale or rental of your timeshare."

d. A statement that any resale contract entered into by or on behalf of the consumer timeshare reseller must comply in all respects with G.S. 93A-65, including the provision of a five-day cancellation period for the prospective consumer resale purchaser.

(7) Fail to honor any cancellation notice sent by the consumer timeshare reseller within five days after the date the consumer timeshare reseller signs the contract for resale advertising services.

(8) Fail to provide a full refund of all money paid by a consumer timeshare reseller within 20 days after receipt of notice of cancellation or within five days after receipt of funds from a cleared check, whichever is later.

(d) If a resale service provider uses a contract for resale advertising services that fails to comply with the requirements of this section, the contract shall be voidable at the option of the consumer timeshare reseller for a period of one year after the date it is executed by the consumer timeshare reseller.

(e) Notwithstanding obligations placed upon any other persons by this section, it is the duty of a resale service provider to supervise, manage, and control all aspects of the offering of resale advertising services by any agent or employee of the resale service provider. Any violation of this section that occurs during that offering shall be deemed a violation by the resale service provider as well as by the person actually committing the violation.

(f) Providing resale advertising services with respect to a consumer resale timeshare in a timeshare property located or offered within this State, or in a multisite timeshare program registered or required to be registered to be offered in this State, including acting as an agent or third-party service provider for a resale service provider, constitutes operating, conducting, engaging in, or carrying on a business or business venture in this State.

(g) If a resale service provider also offers timeshare transfer services, the resale service provider must comply with G.S. 93A-68.

(h) Any violation of this section is an unfair or deceptive act or practice prohibited by G.S. 75-1.1.

**"§ 93A-68. Timeshare transfer services.**

(a) In the course of advertising, marketing, promoting, offering, sale, or performance of any timeshare transfer services, no person shall do any of the following:

(1) Engage in any timeshare transfer services for compensation, or the expectation of receiving compensation, without first obtaining a written timeshare transfer services agreement signed by the consumer timeshare reseller that complies with this section.

(2) Fail to provide both the consumer timeshare reseller and the independent escrow agent required by this section with an executed copy of the timeshare transfer services agreement.

(3) Advise, suggest, or assist with advising or suggesting that a consumer timeshare reseller cease making any payment of assessments, ad valorem real estate taxes, or any other sums imposed against the consumer resale timeshare, or any payment of any amounts due to a mortgagee or other lienor under a

- 1 mortgage or other lien or encumbrance secured by the consumer resale  
2 timeshare.
- 3 (4) Represent, expressly or by implication, that (i) a consumer timeshare reseller  
4 cannot or should not contact or communicate with the developer, managing  
5 entity, exchange company, mortgagee, or lienor or (ii) the developer,  
6 managing entity, exchange company, mortgagee, or lienor is prohibited from  
7 contacting or communicating with the consumer timeshare reseller.
- 8 (5) Offer, obtain, negotiate, arrange, or assist with offering, obtaining,  
9 negotiating, arranging a timeshare transfer service that disposes of the  
10 consumer resale timeshare through foreclosure of the consumer resale  
11 timeshare for (i) the nonpayment of assessments, ad valorem real estate taxes,  
12 or any other sums imposed against the consumer resale timeshare or (ii)  
13 nonpayment of amounts due to a mortgagee or other lienor under a mortgage  
14 or other lien encumbrance secured by the consumer resale timeshare.
- 15 (6) Charge or accept a fee for obtaining, negotiating, arranging, or assisting with  
16 obtaining, negotiating, or arranging the voluntary relinquishment of a  
17 consumer resale timeshare to a managing entity in lieu of payment of  
18 assessments or ad valorem real estate taxes.
- 19 (b) A consumer timeshare reseller has the right to cancel the timeshare transfer services  
20 agreement until midnight of the fifth day after the execution of the timeshare transfer services  
21 agreement. The consumer timeshare reseller may not waive this right of cancellation. Any oral  
22 or written declaration or instrument that purports to waive this right of cancellation is void.  
23 Cancellation under this section is without penalty, and the refund of all monies received by the  
24 transfer service provider shall be made within 20 days of demand therefor by the consumer  
25 timeshare reseller or within five days after receipt of cleared funds from the consumer timeshare  
26 reseller, whichever is later.
- 27 (c) Each timeshare transfer services agreement shall contain the following:
- 28 (1) A statement that no fee, cost, or other compensation may be received by or  
29 paid to the transfer service provider before the delivery to the consumer  
30 timeshare reseller of written evidence that all promised timeshare transfer  
31 services have been performed, including:
- 32 a. Delivery to both the consumer timeshare reseller and the timeshare  
33 program managing entity of a copy of the recorded timeshare  
34 instrument or other legal document evidencing the transfer of  
35 ownership of or legal title to the consumer resale timeshare to the  
36 transferee, accompanied by the full name, address, and other known  
37 contact information for the transferee.
- 38 b. Delivery to the consumer timeshare reseller of a copy of the legal  
39 document executed by the vendor or obligee evidencing the mutually  
40 agreed upon termination of the timeshare instrument or timeshare loan  
41 obligation relating to the consumer resale timeshare.
- 42 (2) The name, address, current phone number, and current email address of the  
43 independent escrow agent required by this section.
- 44 (3) A specific, detailed description of each timeshare transfer service promised to  
45 be provided, including a statement of the last date by which each promised  
46 service will be fully performed, and including a statement that the transfer  
47 service provider will deliver to the consumer timeshare reseller written notice  
48 of the full performance of each timeshare transfer service, together with a copy  
49 of the legal document evidencing the completed performance of the service.
- 50 (4) The total cost to the consumer timeshare reseller of each timeshare transfer  
51 service promised to be provided pursuant to subdivision (3) of this subsection

1 together with an itemized list of all of the fees and costs that comprise the total  
2 cost of that service.

3 (5) The terms or conditions of any refund, cancellation, exchange, or repurchase  
4 policy for a timeshare transfer service, including the circumstances under  
5 which a guaranteed or nonguaranteed, full or partial refund will be granted.

6 (6) A statement in conspicuous type that nonpayment of a timeshare loan  
7 obligation or assessment obligation may lead to a foreclosure action or other  
8 proceeding that could result in the loss of ownership of the timeshare and  
9 negative consequences for the consumer timeshare reseller's credit and tax  
10 liability.

11 (7) A statement in substantially the following form in conspicuous type  
12 immediately preceding the space in the timeshare transfer services agreement  
13 provided for the consumer timeshare reseller's signature:

14 "[Insert transfer service provider name] has agreed to provide you with  
15 timeshare transfer services under this timeshare transfer services agreement.  
16 After those services have been fully performed, the transfer service provider  
17 is obligated to provide you with written notice of full performance and a copy  
18 of the recorded instrument or other legal document evidencing the transfer or  
19 assignment of your timeshare, the termination of your timeshare contract, or  
20 the release from a timeshare loan or assessment obligation. Any fee or other  
21 compensation paid by you under this agreement before full performance by  
22 [Insert transfer service provider name] must be held in escrow by the escrow  
23 agent specified in this agreement, and the transfer service provider is  
24 prohibited from receiving any such fee or other compensation until all  
25 promised timeshare transfer services have been performed.

#### 26 Timeshare Owner's Right of Cancellation

27  
28  
29 You have an unwaivable right to cancel this agreement for any reason within  
30 five days after the date you sign this agreement. If you decide to cancel this  
31 contract, you must notify [insert name of transfer service provider] in writing  
32 of your intent to cancel. Your notice of cancellation shall be effective upon  
33 the date sent and shall be sent to [insert name and mailing address of transfer  
34 service provider] or to [insert transfer service provider's email address]. Your  
35 refund will be made within 20 days after receipt of notice of cancellation or  
36 within five days after receipt of funds from your cleared check, whichever is  
37 later.

38 IMPORTANT: It is recommended that you contact your developer, managing  
39 entity, mortgagee, or lienor before signing this agreement. Your developer,  
40 management entity, mortgagee, or lienor may be willing to negotiate a  
41 payment plan, restructure your debt obligation, or accept the transfer of your  
42 timeshare free of charge."

43 (d) If the timeshare transfer services to be provided include relief to be obtained from the  
44 consumer timeshare reseller's managing entity, mortgagee, or lienor, the timeshare transfer  
45 service provider may not do the following:

46 (1) Request or receive payment of any fee or other consideration until the  
47 consumer timeshare reseller has executed a written agreement between the  
48 consumer timeshare reseller and the consumer timeshare reseller's managing  
49 entity, mortgagee, or lienor incorporating the offer of relief the timeshare  
50 transfer service provider obtained from the managing entity, mortgagee, or  
51 lienor.



1           (2)   Fail to disclose, on a separate page, in conspicuous type, substantially the  
2           following statement at the time the timeshare transfer service provider  
3           furnishes the consumer timeshare reseller with the written agreement specified  
4           in subsection (c) of this section, the following:

5                           "Important Notice

6           This is an offer of relief we obtained from your [insert name of managing  
7           entity, mortgagee, or lienor]. You may accept or reject the offer. If you reject  
8           the offer, you do not have to pay us for this service. If you accept the offer,  
9           you will have to pay us [insert total amount] for this service."

10          (e)   Before entering into any timeshare transfer services agreement, a person providing  
11          timeshare transfer services shall establish an escrow account with an independent escrow agent  
12          for the purpose of protecting the funds or other property of consumer timeshare resellers required  
13          to be escrowed by this subsection. The independent escrow agent shall maintain the escrow  
14          account only in such a manner as to be under the direct supervision and control of the independent  
15          escrow agent. The independent escrow agent shall have a fiduciary duty to each consumer  
16          timeshare reseller to maintain the escrow account in accordance with good accounting practices  
17          and to release the consumer timeshare reseller's funds or other property from escrow only in  
18          accordance with this section.

19          (f)   All funds that are received from or on behalf of a consumer timeshare reseller under  
20          a timeshare transfer services agreement shall be deposited into the escrow account. A fee, cost,  
21          or other compensation that is due or that will be paid to the transfer service provider must be held  
22          in the escrow account until the transfer service provider has fully complied with all of the  
23          obligations under the timeshare transfer services agreement and this section.

24          (g)   The funds required to be escrowed may only be released from escrow as follows:

25          (1)   On the order of the transfer service provider upon presentation of an affidavit  
26          by the transfer service provider that all promised timeshare transfer services  
27          have been performed as set forth in the timeshare transfer services agreement,  
28          including delivery to both the consumer timeshare reseller and the timeshare  
29          program managing entity of either, as applicable: (i) a copy of the recorded  
30          instrument or other legal document evidencing the transfer of ownership of or  
31          legal title to the consumer resale timeshare to the transferee or (ii) a copy of  
32          the legal document executed by the vendor or obligee evidencing the  
33          termination of the timeshare instrument or timeshare loan obligation relating  
34          to the consumer resale timeshare.

35          (2)   To a managing entity to pay any assessments, transfer fees, or other moneys  
36          owed with respect to the consumer resale timeshare or to pay a governmental  
37          agency for the purpose of completing and perfecting the transfer.

38          (h)   The independent escrow agent shall retain all timeshare transfer services agreements,  
39          escrow account records, and affidavits received pursuant to this subsection for a period of five  
40          years.

41          (i)   A transfer service provider, an agent or third-party service provider for the transfer  
42          services provider, or an independent escrow agent who intentionally fails to comply with the  
43          provisions of this subsection concerning the establishment of an escrow account, deposits of  
44          funds into escrow, withdrawal therefrom, and maintenance of records is guilty of a Class E  
45          felony.

46          (j)   The provisions of this section that apply to transfer service providers do not apply to  
47          any of the following:

48          (1)   A resale broker who offers timeshare transfer services to a consumer  
49          timeshare reseller, so long as the resale broker complies in all respects with  
50          the provisions of Article 1 of this Chapter.

1           (2)    An attorney who is licensed in this State and a member in good standing or a  
2           title insurer or agent licensed in this State in good standing who offers  
3           timeshare transfer services to a consumer timeshare reseller.

4           (3)    A mortgagee or servicer or lienor, or agent or contractor of a mortgagee or  
5           servicer or lienor, to the extent that any of them offers timeshare transfer  
6           services to an obligor related to a mortgage, lien, or other encumbrance of a  
7           mortgagee, servicer, or lienor against the obligor's timeshare.

8           (k)    This section shall not apply to the transfer of ownership of a consumer resale  
9           timeshare from a consumer timeshare reseller to the developer or managing entity of that  
10          timeshare program unless and only to the extent the transfer includes the assistance of a transfer  
11          service provider.

12          (l)    Only an attorney licensed in this State or any person authorized to perform nonjudicial  
13          foreclosures pursuant to this Article may offer services to a consumer timeshare reseller in  
14          connection with an involuntary transfer, or proposed involuntary transfer, of a consumer resale  
15          timeshare.

16          (m)   Notwithstanding obligations placed upon any other persons by this section, it is the  
17          duty of a transfer service provider to supervise, manage, and control all aspects of the offering of  
18          timeshare transfer services by any agent or employee of the transfer service provider. Any  
19          violation of this section that occurs during such offering shall be deemed a violation by the  
20          transfer service provider as well as by the person actually committing the violation.

21          (n)   Providing timeshare transfer services with respect to a consumer resale timeshare in  
22          a timeshare property located or offered within this State, or in a multisite timeshare program  
23          registered or required to be registered to be offered in this State, including acting as an agent or  
24          third-party service provider for a transfer service provider, constitutes operating, conducting,  
25          engaging in, or carrying on a business or business venture in this State.

26          (o)   An owner, managing entity, or developer may bring an action for injunctive relief and  
27          recover their reasonable attorneys' fees and costs against a timeshare service provider for a  
28          violation of this section.

29          (p)   Upon a consumer timeshare reseller's request, the developer or managing entity shall  
30          provide information regarding relinquishment or other disposition options of the consumer  
31          timeshare reseller's timeshare available to the timeshare reseller through the developer or  
32          managing entity, if available.

33          (q)   Any violation of this section is an unfair or deceptive act or practice prohibited by  
34          G.S. 75-1.1.

35          **"§ 93A-69. Timeshare program extensions.**

36          (a)   Unless the timeshare declaration specifically provides a lower percentage, the vote or  
37          written consent, or both, of at least sixty-six percent (66%) of all eligible voting interests present  
38          in person or by proxy at a duly noticed, called, and constituted meeting of the owners may, at  
39          any time, extend the term of the timeshare program. If the term of a timeshare program is  
40          extended pursuant to this section, all rights, privileges, duties, and obligations created under  
41          applicable law or the timeshare declaration continue in full force to the same extent as if the  
42          extended termination date of the timeshare program were the original termination date of the  
43          timeshare program.

44          (b)   Unless the timeshare declaration specifically provides for a lower quorum, the  
45          quorum for the timeshare owners' association meeting to extend the timeshare program is fifty  
46          percent (50%) of all eligible voting interests in the timeshare program.

47          (c)   The owners' association meeting held pursuant to subsection (a) of this section may  
48          be held at any time before the termination of the timeshare program.

49          (d)   The managing entity may determine that any voting interest that is delinquent in the  
50          payment of more than two years of assessments is ineligible to vote on any extension of the  
51          timeshare program unless such delinquency is paid in full before the vote.

1       (e) A proxy for a vote to extend a timeshare program pursuant to this section is valid for  
2 up to three years and is revocable unless the proxy states it is irrevocable.

3       (f) If an extension vote or consent pursuant to this section is proposed for a timeshare  
4 project of a multisite timeshare program located in this State, the proposed extension is effective  
5 only if the person authorized to make additions or substitutions of accommodations and facilities  
6 pursuant to the timeshare declaration also approves the extension.

7 **"§ 93A-69.1. Timeshare program terminations.**

8       (a) Unless the timeshare declaration provides otherwise, the vote or written consent, or  
9 both, of sixty percent (60%) of all voting interests in a timeshare program may terminate the term  
10 of the timeshare program at any time. If a timeshare program is terminated pursuant to this  
11 section, the termination has immediate effect pursuant to applicable law and the timeshare  
12 declaration as if the effective date of the termination were the original date of termination.

13       (b) If the timeshare property is managed by a timeshare owners' association that is  
14 separate from any underlying owners' association, the termination of a timeshare program does  
15 not change the corporate status of the timeshare owners' association. The timeshare owners'  
16 association continues to exist only for the purposes of concluding its affairs, prosecuting and  
17 defending actions by or against it, collecting and discharging obligations, disposing of and  
18 conveying its property, collecting and dividing its assets, and otherwise complying with this  
19 subsection.

20       (c) After termination of a timeshare program, the managing entity or the board, if there  
21 is a timeshare owners' association, shall serve as the termination trustee, and in a fiduciary  
22 capacity may bring an action in partition on behalf of the tenants in common in each former  
23 timeshare property or sell the former timeshare property in any manner and to any person who is  
24 approved by a majority of all tenants in common. The termination trustee shall have all other  
25 powers reasonably necessary to effect the partition or sale of the former timeshare property,  
26 including the power to maintain the property during the pendency of any partition action or sale.

27       (d) All reasonable expenses incurred by the termination trustee relating to the  
28 performance of its duties pursuant to this section, including reasonable attorneys' fees and other  
29 professionals, must be paid by the tenants in common of the former timeshare property subject  
30 to partition or sale proportionate to their respective ownership interests.

31       (e) The termination trustee shall adopt reasonable procedures to implement the partition  
32 or sale of the former timeshare property and comply with the requirements of this section.

33       (f) If a timeshare program is terminated in an underlying property regime and the  
34 underlying property regime is not simultaneously terminated, a majority of the tenants in  
35 common in each former timeshare unit present and voting in person or by proxy at a meeting of  
36 tenants in common conducted by the termination trustee, or conducted by the board of the owners'  
37 association of the underlying property regime, if the owners' association managed the former  
38 timeshare property, shall designate a voting representative for the timeshare unit and file a voting  
39 certificate with the owners' association for the underlying regime. The voting representative may  
40 vote on all matters at meetings of the owners' association for the underlying regime, including  
41 termination of the underlying regime.

42       (g) Unless the timeshare declaration provides otherwise, this section applies only to a  
43 timeshare program that has been in existence for at least 25 years as of the effective date of the  
44 termination vote or consent.

45       (h) If a termination vote or consent is proposed for a timeshare project of a multisite  
46 timeshare program located in this State, the proposed termination is effective only if the person  
47 authorized to make additions or substitutions of accommodations and facilities pursuant to the  
48 timeshare instrument also approves the termination."

49       **SECTION 2.(a)** G.S. 47C-1-103 reads as rewritten:

50       **"§ 47C-1-103. Definitions.**

1 In the declaration and bylaws, unless specifically provided otherwise or the context otherwise  
2 requires, and in this chapter:

3 ...  
4 (24) "Time share" means a "~~time share~~" "timeshare" as defined in ~~G.S.~~  
5 ~~93A-41(9)~~; G.S. 93A-41(34).

6 ...."

7 **SECTION 2.(b)** G.S. 53-244.030 reads as rewritten:  
8 "**§ 53-244.030. Definitions.**

9 For purposes of the Article, the following definitions apply:

10 ...

11 (21) "Mortgage loan originator" means:

12 ...

13 c. The term does not include:

14 ...

15 3. A person or entity solely involved in extensions of credit or  
16 sale of ~~time share~~ timeshare instruments relating to ~~time share~~  
17 timeshare plans, as that term is defined in ~~G.S. 93A-41(9a)~~;  
18 G.S. 93A-41(37); or

19 ...."

20 **SECTION 2.(c)** G.S. 66-232 reads as rewritten:  
21 "**§ 66-232. Definitions.**

22 For purposes of this Article the following definitions apply:

23 ...

24 (9) "Membership camping contract" or "membership camping agreement" means  
25 any written agreement of more than one year's duration, executed in whole or  
26 in part within this State, which grants to a purchaser a right or license to use  
27 the campground of a membership camping operator or any portion thereof.  
28 Any agreement which constitutes a "~~time share instrument~~" "timeshare  
29 instrument" as defined in G.S. 93A-41 is excluded from this definition.

30 ...."

31 **SECTION 3.** This act is effective when it becomes law.