

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5557

By Delegate Holstein

[Originating in the Committee on the Judiciary;

Reported on February 25, 2026]

1 A BILL to amend and reenact §36-9-4 and §36-9-10 of the Code of West Virginia, 1931, as
2 amended, relating to real estate time-shares; providing definitions; and requiring
3 advertising materials be submitted with the initial public offering statement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. WEST VIRGINIA REAL ESTATE TIME-SHARING ACT.

§36-9-4. Definitions.

1 As used in this article:

2 ~~(a)~~ "Accommodations" means any apartment, condominium or cooperative unit, cabin,
3 lodge, hotel or motel room or any other private or commercial structure which is situated on real
4 property and designed for occupancy by one or more individuals.

5 "Advertising materials" means:

6 (A) Promotional brochures, pamphlets, advertisements or other materials to be
7 disseminated to the public in connection with the sale of time shares;

8 (B) Transcripts of radio and television advertisements;

9 (C) Lodging certificates;

10 (D) Transcripts of standard verbal sales presentations; and

11 (E) Any other advertising materials.

12 ~~(b)~~ "Assessment" means the share of funds required for the payment of common expenses
13 which is assessed from time to time against each purchaser by the managing entity;

14 ~~(c)~~ "Common expenses" means those expenses properly incurred for the maintenance,
15 operation and repair of all accommodations or facilities, or both, constituting the time- sharing
16 plan;

17 ~~(d)~~ "Contract" means any agreement conferring the rights and obligations of the time-
18 sharing plan on the purchaser;

19 ~~(e)~~ "Developer" means the person creating a time-sharing plan;

(f) "Division" means the division of land sales and condominiums in the office of the State Auditor;

~~(g)~~ "Facilities" means any structure, service, improvement or real property, improved or unimproved, which is made available to the purchasers of a time-sharing plan;

~~(h)~~ "Managing entity" means the person responsible for operating and maintaining the time-sharing plan;

~~(i)~~ "Offer to sell," "offer for sale," "offered for sale" or "offer" means solicitation of purchasers, the taking of reservations or any other method whereby a purchaser is offered the opportunity to participate in a time-sharing plan;

~~(j)~~ "Owners' association" means the association made up of all purchasers of a time-sharing plan who have purchased a fee simple interest in real property;

~~(k)~~ "Purchaser" means any person who is buying or who has bought a time-share period in a time-sharing plan;

~~(l)~~ "Seller" means any developer or any other person, or agent or employee thereof, who is offering time-share periods for sale to the public in the ordinary course of business, except a person who has acquired a time-share period for his or her own occupancy and later offers it for resale;

~~(m)~~ "Time-share period" means that period of time when a purchaser of a time-sharing plan is entitled to the possession and use of the accommodations or facilities, or both, of a time-sharing plan;

~~(n)~~ "Time-sharing plan" means any arrangement, plan, scheme or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license or right-to-use agreement or by any other means, whereby a purchaser, in exchange for a consideration receives a right to use accommodations or facilities, or both, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years; and

(e) "Time-share unit" means an accommodation or facility of a time-sharing plan which is divided into time-share periods.

§36-9-10. Advertising materials.

(a) All A sample of advertising materials shall be submitted to be filed with the division ~~within ten days of use.~~ "Advertising materials" include:

~~(1) Promotional brochures, pamphlets, advertisements or other materials to be disseminated to the public in connection with the sale of time shares;~~

~~(2) Transcripts of radio and television advertisements;~~

~~(3) Lodging certificates;~~

~~(4) Transcripts of standard verbal sales presentations; and~~

~~(5) Any other advertising materials with the initial public offering statement filing.~~

(b) No advertising shall:

(1) Misrepresent a fact or create a false or misleading impression regarding the time-sharing plan;

(2) Make a prediction of specific or immediate increases in the price or value of time-share periods;

(3) Contain a statement concerning future price increases by the seller which are nonspecific or not bona fide;

(4) Contain any asterisk or other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring a material fact;

(5) Describe any improvement to the time-sharing plan that is not required to be built or that is uncompleted unless the improvement is conspicuously labeled as "NEED NOT BE BUILT," "PROPOSED" or "UNDER CONSTRUCTION" with the date or promised completion clearly indicated.

(6) Misrepresent the size, nature, extent, qualities or characteristics of the offered accommodations or facilities;

(7) Misrepresent the amount or period of time during which the accommodations or facilities will be available to any purchaser;

(8) Misrepresent the nature or extent of any services incident to the time-sharing plan;

(9) Make any misleading or deceptive representation with respect to the contents of the public offering statement and the contract or the purchasers' rights, privileges, benefits or obligations under the contract or this chapter; and

(10) Misrepresent the conditions under which a purchaser may exchange the right to use accommodations or facilities in one location for the right to use accommodations or facilities in another location.

(c) No promotional device, including any sweepstakes, lodging certificate, gift award, premium, discount, drawing or display booth, may be utilized without a disclosure that:

(1) The promotional device is being used for the purpose of soliciting sales of time-share periods; and

(2) The promotional device is being used to obtain the names and addresses of prospective purchasers and that any names and addresses acquired may be used for the purpose of soliciting sales of time-share periods.

(d) When a time-share project uses free offers, gift enterprises, drawings, sweepstakes or discounts as a promotional program, the rules of such promotional program shall be disclosed to the public and shall state:

(1) The name of each time-sharing plan or business entity participating in the program;

(2) The day and year by which all prizes listed or offered will be awarded; and

(3) The method by which all prizes are to be awarded.

(e) At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be awarded by the date and year specified in the promotion. A record shall be maintained containing the names and addresses of winners of the

50 prizes and the record shall be made available upon request, to the public, upon payment of
51 reasonable reproduction costs.

52 (f) The division shall require full disclosure of all pertinent information concerning the use of
53 lodging certificates in a promotional campaign, including the terms and conditions of the campaign
54 and the fact and extent of participation in such campaign by the developer. The division further
55 may require reasonable assurances that the obligation incurred by a seller or the seller's agent in a
56 lodging certificate program can be met. Such programs are subject to the prior approval of the
57 division.

58 (g) If at any time the division determines that any advertising fails to meet the requirements
59 of this section, the division may undertake enforcement action under the provisions of section
60 twenty-three of this article.