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## New law improves time-share safeguards

The first major overhaul of Ontario's consumer protection legislation in almost 30 years comes into effect July 30, and among many other things, it means major changes in the way the time-share industry will operate in this province.

At present, there is no cooling-off period for time-share agreements in Ontario. In the past, members of the Canadian Resort Development Association offered a five-day cancellation privilege to their clients on request, but not every Ontario time-share company is a member of the group.

Effective July 30, Ontarians will have the right to cancel a time-share agreement at any time from the date of entering into the agreement until 10 calendar days after receiving a written copy of the document.

In addition, there is a one-year cancellation privilege if the agreement fails to comply with the new regulations under the legislation.

If a time-share operator fails to deliver the time-share ownership and operation documents within 30 days after the contract itself is signed and delivered, the purchaser may cancel the agreement until the operator starts to perform the contract.

In order to cancel a time-share agreement, a purchaser must give notice of cancellation to the seller (who is called a supplier in the regulations).

After receiving notice, the supplier has 15 days to refund payment.

Never before in Ontario has any government legislation imposed requirements for a real estate contract as detailed and as onerous as those in the new consumer protection regulations.

Among the many requirements of the legislation, all time-share contracts will now be required to set out:

- Operator's name, business address, phone and fax numbers, and email address.
- Names of all sales staff who initiated the contract, negotiated and concluded it.
- Location and type of suite and property that the buyer will have the right to occupy and the specific periods or dates of the buyer's occupancy privileges.
- Goods, services and facilities to be provided to the consumer or to which the consumer will have access.
- Any conditions, restrictions or limitations on the consumer's right to dispose of the time-share.
- Details of the consumer's right to use any substitute time-share property, including the times the right may be exercised, the method and cost of exercising it, and the name of the entity responsible for co-ordinating the substitution of time-share rights.
- Details of how consumers can exchange their right to occupy a precise suite or type of suite for the right to occupy a different suite or type of suite.

Such details include the times the right may be exercised, the method and cost of exercising it, and the name of the entity responsible for co-ordinating the exchange of time-share rights.

- A fair and accurate description of the consumer's right to obtain discounts or benefits for future travel, accommodation or related goods or services.
- An itemized list setting out the amount of the one-time payment required on entering into the contract and any additional one-time payments, along with the amount and frequency of the periodic payments required in future.
- An itemized list setting out the cost and availability of optional goods and services, including any applicable membership fees.
- Particulars of how and when future payments are subject to change.

As well, there is a standard warning that must appear in all contracts to which the Consumer Protection Act 2002 applies.

Under the act, in a time-share agreement, a consumer acquires the right to use property that circulates periodically among participants in the plan.

The act applies whether or not the property is located in Ontario, and it includes agreements that provide consumers with access to discounts or benefits for future travel or accommodation.

The definition appears to be broad enough to cover various types of time-shares or interval ownerships, including fractional ownership.

As a lawyer, I prefer the fractional ownership model of time-sharing, which is a combination of time-share and condominium.

Fractional ownership purchasers actually receive a registered deed to their interest in the project making it easier to sell and finance. The underlying condominium offers more stability and permanence to the arrangement than the older model time-shares.

In the last few years, complaints about traditional time-shares have ranked in the top five topics of letters and emails I have received from Star readers.

Typical complaints involve misleading representations, lack of documentation of promises made in sales offices and high-pressure sales tactics.

Hopefully, the introduction of the new legislation and its 10-day cooling-off period will bring an end to this type of complaint and generally improve the reputation of the industry among Ontarians.

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