

SUBCHAPTER 58B – TIMESHARES

SECTION .0100 – TIMESHARE PROGRAM REGISTRATION

21 NCAC 58B .0101 APPLICATION FOR REGISTRATION

(a) A timeshare program seeking registration shall apply to the Commission on a form available on the Commission's website and shall, in addition to the requirements set forth in G.S. 93A-52, set forth:

- (1) the timeshare program's physical and mailing address and telephone number;
- (2) the developer's name, address, telephone number, email address, type of business structure with supporting documentation, and legal counsel's contact information, if any;
- (3) information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;
- (4) a description of the timeshare estate to be sold or conveyed to purchasers;
- (5) the developer's past real estate development experience and any criminal, bankruptcy, and occupational licensing history;
- (6) the developer's financial information including the following:
 - (A) an audited financial statement within the previous six months;
 - (B) loan commitments for completion of the timeshare program; and
 - (C) a projected budget for construction, marketing, and operations of the timeshare program;
- (7) the Registrar, Program Broker, marketing entity, and managing entity's:
 - (A) name;
 - (B) business and email address;
 - (C) real estate license number, if applicable;
 - (D) telephone number; and
 - (E) executed Affidavit of Designation, if applicable, that includes:
 - (i) the timeshare program name, registration number, and address;
 - (ii) the name of the designated individual and license number, if applicable, or financial institute;
 - (iii) the designated individual's address, email address, and telephone number; and
 - (iv) a notarized signature of the designated individual.
- (8) the names and real estate license number of brokers associated with the timeshare program; and
- (9) a signed affidavit by the developer.

(b) An entity that owns time shares at a timeshare program where there are one or more existing registered developers may also apply to the Commission for registration of its timeshares, provided that the entity does not control a registered developer, is not controlled by a registered developer, and is not in common control of the program with a registered developer.

*History Note: Authority G.S. 93A-51; 93A-52;
Eff. March 1, 1984;
Amended Eff. July 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.*

21 NCAC 58B .0102 REGISTRATION FEE

The timeshare program registration fee pursuant to Rule .0101 of this Subchapter shall be:

- (1) one thousand dollars (\$1,000) for programs with 16 or more units;
- (2) seven hundred dollars (\$700.00) for programs with 15 or fewer units; and
- (3) four hundred fifty dollars (\$450.00) for programs offering to resell 51 or more units through a homeowner association which has acquired the units in satisfaction of unpaid assessments by prior owners.

*History Note: Authority G.S. 93A-51; 93A-52;
Eff. March 1, 1984;
Amended Eff. July 1, 2016; April 1, 2013; July 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.*

21 NCAC 58B .0103 RENEWAL OF TIMESHARE PROGRAM REGISTRATION

(a) A developer seeking renewal of a timeshare program registration shall submit a renewal application on a form available on the Commission's website that sets forth the:

- (1) timeshare program's name, registration number, and mailing address;
- (2) developer's name, telephone number, and email address;
- (3) names and license numbers of brokers associated with the timeshare program;
- (4) exchange programs associated with the timeshare program along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
- (5) name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for the:
 - (A) managing entity;
 - (B) marketing entity;
 - (C) registrar pursuant to G.S. 93A-58(a);
 - (D) independent escrow agent pursuant to G.S. 93A-42(a); and
 - (E) program broker pursuant to 93A-58(c);
- (6) certification that the information contained in the renewal registration is accurate and current on the date of the renewal application; and
- (7) developer's attorney or program broker's signature.

(b) The developer shall submit a renewal registration fee of eight hundred dollars (\$800.00) for timeshare programs not offered for resale by a homeowners association. A homeowners association shall submit a renewal registration fee of four hundred fifty dollars (\$450.00).

(c) Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission pursuant to G.S. 93A-54(b)(13).

*History Note: Authority G.S. 93A-51; 93A-52(d);
Eff. March 1, 1984;
Temporary Amendment Eff. May 23, 1985;
Amended Eff. July 1, 2016; April 1, 2013; February 1, 1989; September 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022; July 1, 2018.*

21 NCAC 58B .0104 AMENDMENTS TO TIMESHARE PROGRAM REGISTRATION

(a) A developer shall notify the Commission within 30 days after any material change in the information contained in the timeshare program registration.

(b) A material change shall be any change which reflects a difference in the:

- (1) nature, quality, or availability of the purchaser's ownership or right to use the timeshare;
- (2) nature, quality, or availability of any amenity at the project;
- (3) developer's title, control, or right to use the real property on which the project is located;
- (4) information concerning the developer, managing or marketing entities, independent escrow agent, registrar, or program broker, previously filed with the Commission; or
- (5) purchaser's right to exchange his or her unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change.

(c) A timeshare developer seeking to amend a program's registration shall submit each document to be amended with new or changed information underlined in red. Every amendment submitted shall be accompanied by a cover letter signed by the developer or the developer's attorney containing a summary of the amendment and a statement of reasons for which the amendment has been made. The cover letter shall also state:

- (1) the name and address of the timeshare program and registration number;
- (2) the name and address of the developer;
- (3) the document or documents to which the amendment applies;
- (4) whether or not the changes represented by the amendment required the assent of the timeshare owners and, if so, how the assent of the timeshare owners was obtained; and

- (5) the recording reference in the office of the register of deeds for the changes, if applicable.
- (d) If the ownership of a developer of a registered timeshare program changes, the new developer shall file a new timeshare program registration application pursuant to Rule .0101 of this Subchapter. Said refiling shall be without a fee.

History Note: Authority G.S. 93A-51; 93A-52(a3);
Eff. March 1, 1984;
Amended Eff. October 1, 2000; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

21 NCAC 58B .0105 NOTICE OF TERMINATION

A developer seeking to terminate its interest in a timeshare program shall file a Notice of Termination form available on the Commission's website and shall set forth the timeshare program's:

- (1) name;
- (2) physical, mailing, and email address;
- (3) telephone number;
- (4) reason the developer is terminating its interest;
- (5) date of termination;
- (6) new owner, if the developer's interest will be sold or transferred; and
- (7) the signature of the developer.

History Note: Authority G.S. 93A-51; 93A-52;
Eff. April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

SECTION .0200 - PUBLIC OFFERING STATEMENT

21 NCAC 58B .0201 GENERAL PROVISIONS

- (a) Information contained in a public offering statement pursuant to G.S. 93A-44(b) shall be accurate on the day it is supplied to a purchaser.
- (b) The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary action by the Commission.

History Note: Authority G.S. 93A-44(b); 93A-51;
Eff. March 1, 1984;
Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY

In addition to the requirements in G.S. 93A-44, a public offering statement shall contain a page prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary in conspicuous type. The Public Offering Statement Summary shall read as follows:

PUBLIC OFFERING STATEMENT SUMMARY

NAME OF PROJECT:

NAME AND REAL ESTATE LICENSE NUMBER OF BROKER (IF ANY):

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesperson or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

NOTICE

UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIMESHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIMESHARE PURCHASE, YOU MUST MAIL, ELECTRONICALLY MAIL, OR HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

*History Note: Authority G.S. 93A-44; 93A-51;
Eff. March 1, 1984;
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2023; July 1, 2022.*

21 NCAC 58B .0203 RECEIPT FOR PUBLIC OFFERING STATEMENT

(a) Prior to the execution of any contract to purchase a timeshare, a developer or a timeshare salesperson shall obtain from the purchaser a written receipt for the public offering statement, which shall display, directly over the buyer signature line in type in all capital letters, no smaller than the largest type on the page on which it appears, the following statement: DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE RECEIVED A COMPLETE COPY OF THE PUBLIC OFFERING STATEMENT.

(b) Receipts for public offering statements shall be maintained as part of the records of the sales transaction.

*History Note: Authority G.S. 93A-44(b); 93A-51;
Eff. February 1, 1988;
Amended Eff. October 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.*

SECTION .0300 - CANCELLATION

21 NCAC 58B .0301 PROOF OF CANCELLATION

(a) The postmark date affixed to any written notice of a purchaser's intent to cancel a timeshare purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending to rebut this presumption shall be admissible at a hearing before the Commission.

(b) Upon receipt of a purchaser's written notice of intent to cancel a timeshare purchase, the developer, or the developer's agent or representative, shall retain the notice and any enclosure, envelope, or other cover in the developer's files, and shall produce the file upon the Commission's request.

(c) When there is more than one developer at a timeshare program and a purchaser gives written notice of intent to cancel a timeshare purchase that is received by a developer or sales staff other than the one from whom the timeshare was purchased, the developer or sales staff receiving such notice shall promptly deliver it to the proper developer who shall then honor the notice if it was timely sent by the purchaser.

*History Note: Authority G.S. 93A-45; 93A-51; 93A-54(f);
Eff. September 1, 1984;
Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

SECTION .0400 - TIMESHARE SALES OPERATION

21 NCAC 58B .0401 RETENTION OF TIMESHARE RECORDS

- (a) A developer shall maintain or cause to be maintained complete timeshare records for a period of not less than three years after the completion or termination of a timeshare sale, rental, or exchange.
- (b) Timeshare records shall include, at a minimum, copies of the following:
- (1) offers to purchase;
 - (2) applications and contracts to purchase;
 - (3) rent or exchange timeshares;
 - (4) records of deposits;
 - (5) maintenance and disbursement of funds required to be held in trust;
 - (6) receipts;
 - (7) notices of cancellations;
 - (8) compensation of timeshare salespersons;
 - (9) public offering statement and summary; and
 - (10) any other records pertaining to the timeshare transaction or termination.
- (c) Timeshare records shall be made available for inspection and reproduction to the Commission or its authorized representatives without prior notice.

History Note: Authority G.S. 93A-3(c); 93A-51; 93A-54;
Eff. September 1, 1984;
Amended Eff. October 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

21 NCAC 58B .0402 TIMESHARE AGENCY AGREEMENTS AND DISCLOSURE

Timeshare sales transactions conducted by brokers on behalf of a developer are subject to 21 NCAC 58A .0104.

History Note: Authority G.S. 93A-3(c); 93A-51;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

SECTION .0500 – HANDLING AND ACCOUNTING OF FUNDS

21 NCAC 58B .0501 TIMESHARE TRUST FUNDS

- (a) Except as otherwise permitted by G.S. 93A-45(d), all monies received by a developer or a timeshare salesperson in connection with a timeshare sales transaction shall be deposited into a trust or escrow account immediately following receipt and shall remain in such account for ten days from the date of sale or cancellation by the purchaser, whichever first occurs.
- (b) All monies received in connection with a timeshare transaction shall be delivered immediately to the program broker.

History Note: Authority G.S. 93A-45; 93A-51;
Eff. September 1, 1984;
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; July 1, 1988; February 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

SECTION .0600 - PROGRAM BROKER

21 NCAC 58B .0601 DESIGNATION OF PROGRAM BROKER

(a) The developer shall designate a program broker for each registered timeshare program. The developer shall file with the Commission an Affidavit of Timeshare Program Broker available on the Commission's website and shall set forth the timeshare program's:

- (1) name and registration number;
- (2) program broker's name, business and email address, real estate license number, telephone number, and notarized signature.

(b) The developer shall file with the Commission a new Affidavit of Timeshare Program Broker within 10 days of any change in the program broker.

(c) Brokers licensed pursuant to 21 NCAC 58A .1800 and provisional brokers as defined in G.S. 93A-4(a1) shall not be designated as a program broker.

History Note: Authority G.S. 93A-9; 93A-41(24); 93A-51; 93A-58(d);
Eff. February 1, 1998;
Amended Eff. April 1, 2006; July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

21 NCAC 58B .0602 DUTIES OF THE PROGRAM BROKER

(a) The program broker shall:

- (1) display the timeshare program registration certificate at the project;
- (2) ensure that each broker affiliated with the program has complied with Rules .0503 and .0504 of this Subchapter;
- (3) notify the Commission of any change in the developer or material change pursuant to Rule .0104(b) of this Subchapter;
- (4) deposit and maintain the trust or escrow account of the timeshare program and the records pertaining thereto;
- (5) retain and maintain the timeshare program's records pursuant to Rule .0401 of this Subchapter.

(b) The program broker shall review all contracts, public offering statements and other documents distributed to the timeshare program's purchasers to ensure that the documents comport with the requirements of the Article 4 of Chapter 93 of the North Carolina Statutes and the rules adopted by the Commission, and to ensure that true and accurate documents have been given to the purchasers.

(c) The program broker shall notify the Commission in writing of any change in his or her status as program broker within 10 days.

History Note: Authority G.S. 93A-51; 93A-58(c);
Eff. February 1, 1988;
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022.

SECTION .0700 - TIME SHARE FORMS

21 NCAC 58B .0701 FORMS FOR TIME SHARE PROJECTS

History Note: Authority G.S. 93A-51; 150B-11(1);
Eff. July 1, 1989;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.