

**CHAPTER 61J2-23
TIME-SHARE SALES**

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61J2-23.001 Time-share Resale Listing Agreement Disclosures.

Pursuant to Section 475.42(1)(n), F.S., it shall be a violation of Chapter 475, F.S., for any broker or salesperson to enter into any agreement with any person engaging the services of the broker in connection with the resale of a time-share period unless the agreement complies in all respects with the following provisions.

(1) In addition to all other requirements of and obligations under Chapter 475, F.S., all agreements engaging the services of a broker in connection with the resale of a time-share period shall contain all of the following:

(a) The following statement in conspicuous type located immediately prior to the space in the agreement reserved for the signature of the owner of the time-share period: **THERE IS NO GUARANTEE THAT YOUR TIME-SHARE PERIOD CAN BE SOLD AT ANY PARTICULAR PRICE OR WITHIN ANY PARTICULAR PERIOD OF TIME.** Any written advertising material utilized by a broker or salesperson in connection with the solicitation of a listing agreement for the resale of a time-share period must also contain this statement in conspicuous type.

(b) A complete and clear disclosure of any fees, commissions, and other costs or compensation payable to or received by the broker under the agreement, whether directly or indirectly.

(c) The term of the agreement; a statement regarding the ability of any party to extend the term of the agreement; and a description of the conditions under which the agreement may be extended and all related costs.

(d) A description of the services to be provided by the broker under the agreement, and a description of the obligations of each party regarding a resale purchase, including any costs to be borne and any obligations regarding notification of the managing entity of the time-share plan and any exchange company.

(e) A statement disclosing whether the agreement grants exclusive rights to the broker to locate a purchaser during the term of the agreement; a statement disclosing to whom and when any proceeds from a sale of the time-share period will be disbursed; a statement whether any party may terminate the agreement and under what conditions; and a statement disclosing the amount of any commission or other compensation due to the broker from any party upon a termination of the agreement prior to the closing of the resale.

(f) A statement disclosing whether the agreement permits the broker or any other person to make any use whatsoever of the time-share period in question and a detailed description of any such permitted use rights, including a disclosure of to whom any rents or profits generated from such use of the time-share period will be paid.

(g) A statement disclosing the existence of any judgments or pending litigation against the broker resulting from or alleging a violation by the broker of Chapters 475, 498, 718 or 721, F.S., or resulting from or alleging consumer fraud on the part of the broker.

(2) All agreements described in subsection (1) must be reduced to writing, and the person engaging the services of the broker must receive a fully executed copy of the written agreement on the day he signs it. If the agreement is initially entered into by telephone or by any other oral means, the broker must make all of the disclosures required by subsection (1) to the person engaging his services prior to accepting anything of value from such person. In any event, a written agreement executed by the broker must be presented for signature to the person engaging his services within 10 days after the date the agreement was initially orally entered into.

Rulemaking Authority 475.05, 475.42 FS. Law Implemented 475.42 FS. History—New 10-25-89, Formerly 21V-23.001, Amended 2-21-10.

61J2-23.002 Time-share Resale Contract Disclosures.

Pursuant to Section 475.42(1)(n), Florida Statutes, it shall be a violation of Chapter 475, Florida Statutes, for any broker or salesperson to utilize any form of contract or purchase and sale agreement in connection with the resale of a time-share period unless the contract or purchase and sale agreement complies in all respects with the following provisions.

(1) All forms of contract or purchase and sale agreement utilized by a broker or salesperson in connection with the resale of a time-share period shall contain all of the following:

(a) An explanation of the form of time-share ownership being purchased and a legally sufficient description of the time-share

period being purchased.

(b) The name and address of the managing entity of the time-share plan.

(c) The following statement in at least 10-point, capitalized type located immediately prior to the space in the contract reserved for the signature of the purchaser: THE CURRENT YEAR'S ASSESSMENT FOR COMMON EXPENSES ALLOCABLE TO THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____. THIS ASSESSMENT, WHICH MAY BE INCREASED FROM TIME TO TIME BY THE MANAGING ENTITY OF THE TIME-SHARE PLAN, IS PAYABLE IN FULL EACH YEAR ON OR BEFORE _____. THIS ASSESSMENT (INCLUDES/DOES NOT INCLUDE) YEARLY AD VALOREM REAL ESTATE TAXES, WHICH (ARE/ARE NOT) BILLED AND COLLECTED SEPARATELY. (If ad valorem real property taxes are not included in the current year's assessment for common expenses, the following statement must be included: THE MOST RECENT ANNUAL ASSESSMENT FOR AD VALOREM REAL ESTATE TAXES FOR THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____.) EACH OWNER IS PERSONALLY LIABLE FOR THE PAYMENT OF HIS ASSESSMENTS FOR COMMON EXPENSES, AND FAILURE TO TIMELY PAY THESE ASSESSMENTS MAY RESULT IN RESTRICTION OR LOSS OF YOUR USE AND/OR OWNERSHIP RIGHTS. In making the disclosures required by this paragraph, the broker may rely upon information provided in writing by the managing entity of the time-share plan.

(d) The disclosure required by Section 721.06(1)(h), Florida Statutes, if applicable.

(e) A complete and accurate disclosure of the terms and conditions of the purchase and closing, including the obligations of the seller and/or the purchaser for closing costs and title insurance.

(f) A statement disclosing the existence of any mandatory exchange program membership included in the time-share plan.

Specific Authority 475.05, 475.42 FS. Law Implemented 475.42 FS. History—New 10-25-89, Formerly 21V-23.002.