WEST VIRGINIA CODE: §36-9-10

§36-9-10. Advertising materials.

(a) All advertising materials shall 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.

(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;

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

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

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

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