# WEST VIRGINIA CODE: §36-9-8

**§36-9-8. Reservation agreements; escrows.**

(a) (1) Prior to filing the public offering statement with the division a seller shall not offer a time-sharing plan for sale but may accept reservation deposits upon approval by the division of a fully executed escrow agreement and reservation agreement property filed with the division.

(2) Reservations shall not be taken on a time-sharing plan unless the seller has an ownership interest or leasehold interest, of a duration at least equal to the duration of the proposed time-sharing plan, in the land upon which the time-sharing plan is to be developed.

(b) Each executed reservation agreement shall be signed by the seller and the escrow agent and shall contain the following:

(1) A statement that the escrow agent will grant a prospective purchaser an immediate, unqualified refund of the reservation deposit upon either the purchaser's or the seller's written request directed to the escrow agent;

(2) A statement that the escrow agent may not otherwise release moneys unless a contract is signed by the purchaser, authorizing the release of the escrowed reservation deposit as a deposit on the purchase price. Such deposit shall then be subject to the requirements of section seven of this article, relating to escrow accounts, surety bonds and nondisturbance instruments;

(3) A statement of the obligation of the developer to file a public offering statement with the division prior to entering into binding contracts;

(4) A statement of the rights of the purchaser to receive the public offering statement required by this chapter;

(5) The name and address of the escrow agent and a statement that the purchaser may obtain a receipt from the escrow agent upon request; and

(6) A statement that the seller assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for the purchase or that the price represented may be exceeded within a stated amount or percentage or a statement that no assurance is given as to the price in the contract for purchase.

(c) (1) The total amount paid for a reservation shall be deposited into a reservation escrow account.

(2) All funds paid in connection with the reservation of a time-share shall be placed in an escrow account established solely for that purpose with an attorney who is a member of the

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State Bar; a bank having trust powers and located in this state; a savings and loan company located in this state; a trust company located in this state; or a real estate broker registered under chapter forty-seven of this code. In lieu of the foregoing, with the approval of the division, the funds may be deposited into an escrow account required by the jurisdiction in which the sale took place.

(3) The escrow agent may invest the escrowed funds in securities of the United States government, or any agency thereof, or in savings or time deposits in institutions insured by an agency of the United States government. The right to receive the interest generated from any such investments shall be as specified by the reservation agreement.

(4) The escrowed funds shall at all reasonable times be available for withdrawal in full by the escrow agent.

(5) Each escrow agent shall maintain separate books and records for each time-sharing plan and shall maintain such books and records in accordance with good accounting practices.

(d) Any seller who intentionally fails to pay all required funds into the escrow account required by this section is guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years.

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