

§ 93A-45. Purchaser's right to cancel; escrow; violation.

(a) A developer shall, before transfer of a time share and no later than the date of any contract of sale, provide a prospective purchaser with a copy of a public offering statement containing the information required by G.S. 93A-44. The contract of sale is voidable by the purchaser for five days after the execution of the contract. The contract shall conspicuously disclose the purchaser's right to cancel under this subsection and how that right may be exercised. The purchaser may not waive this right of cancellation. Any oral or written declaration or instrument that purports to waive this right of cancellation is void.

(b) A purchaser may elect to cancel within the time period set out in subsection (a) by hand delivering or by mailing notice to the developer or the time share salesperson. Cancellation under this section is without penalty and upon receipt of the notice all payments made prior to cancellation must be refunded immediately.

(c) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by the developer or salesperson in a trust or escrow account in a federally insured depository institution or a trust institution authorized to do business in this State and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

(d) If a developer fails to provide a purchaser to whom a time share is transferred with the statement as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from the developer an amount equal to ten percent (10%) of the sales price of the time share not to exceed three thousand dollars (\$3,000). A receipt signed by the purchaser stating that the purchaser has received the statement required by subsection (a) is prima facie evidence of delivery of the statement. (1983, c. 814, s. 1; 1985, c. 578, s. 4.; 2000-140, s. 19(b); 2001-487, s. 23(j); 2017-25, s. 1(l).)