

§ 93A-40. Registration required of timeshare programs; real estate license required.

(a) Unless exempt under this Article, it shall be unlawful for any person in this State to engage or assume to engage in the business of a timeshare salesperson without first obtaining a real estate broker license issued by the North Carolina Real Estate Commission under the provisions of Article 1 of this Chapter unless the timeshare salesperson (i) meets the requirement for exemption set forth in G.S. 93A-2(c)(1) or (ii) is an employee of the registered timeshare developer whose income is reported on IRS Form W-2 of the registered timeshare's developer. It shall be unlawful for a timeshare developer to sell or offer to sell a timeshare required to be registered in this State pursuant to this Article without first obtaining a certificate of registration issued by the North Carolina Real Estate Commission under the provisions of this Article.

(b) A person responsible as general partner, corporate officer, joint venture, or sole proprietor who intentionally acts as a timeshare developer, allowing the offering of sale or the sale of timeshares to a purchaser, without first obtaining registration of the timeshare project under this Article shall be guilty of a Class I felony.

(c) The provisions of this Article shall not apply to the following:

- (1) Any arrangement, plan, scheme, or method, including a timeshare program, wherein the contractually specified maximum total financial obligation on the owner's part is three thousand dollars (\$3,000) or less during the entire term of the plan.
- (2) Any arrangement, plan, scheme, or method, including a timeshare program, if the initial term and any renewal term are each for a period of five years or less, regardless of the owner's contractually specified maximum total financial obligation, if any; provided, however, that (i) the period of any optional renewal term which the owner, in the owner's sole discretion, may affirmatively elect to exercise, whether or not for additional consideration, shall not be included, and (ii) the period of any automatic renewals shall be included unless an owner has the right to terminate the membership at any time and receive a pro rata refund or the owner receives a notice no less than 30 days and no more than 60 days prior to any renewal term informing the owner of the right to terminate at any time prior to the date of automatic renewal.
- (3) The offering or sale, in another jurisdiction, of a timeshare program containing timeshare units located in this State; provided, however, that the timeshare program has been registered with the Commission.
- (4) The offering or sale, in this State, of a timeshare program containing only timeshare units located in another jurisdiction or jurisdictions.
- (5) The offering or sale of no more than seven timeshares within a five-year period by a consumer timeshare reseller who has acquired the timeshares for their own use and occupancy and who later offers it for resale, provided that the owner complies with the provisions of G.S. 93A-67.
- (6) The offering or sale by a managing entity, not otherwise a developer, or a third party engaged by the managing entity, of 50 or fewer timeshares in the timeshare program which it manages in a given calendar year to purchasers who are not existing owners of that timeshare program, provided that the managing entity complies with the provisions of G.S. 93A-67.
- (7) The conveyance, assignment, or transfer of more than seven timeshares to a purchaser who subsequently conveys, assigns, or transfers all acquired timeshares to a single purchaser in a single transaction, which transaction may occur in stages.

- (8) A purchaser's acquisition, or the right to acquire, more than seven timeshare interests from an owner in connection with a loan, securitization, conduit, or similar financing arrangement transaction and who subsequently arranges for all or a portion of the timeshares to be offered by a developer in the ordinary course of business on its own behalf or on behalf of the purchaser.
- (9) The offering of an accommodation, product, service, discount, or other benefit which is incidental to the timeshare program and which is not necessary for any accommodation of the timeshare program to be available for use by an owner in a manner consistent in all material respects with the manner portrayed by any promotional material, advertising, or public offering statement. (1983, c. 814, s. 1; 1987, c. 516, s. 16; 2000-140, s. 19(b); 2005-395, s. 19; 2019-195, s. 4; 2021-163, s. 1(c); 2021-192, s. 5(a).)