

557A.16 Enforcement and cause of action.

1. Violations of this chapter, unfair methods of competition, and deceptive or unfair acts or practices, in the offer or sale of a time-share are unlawful. Enforcement shall be as provided in section 714.16. The terms “*unfair methods of competition*” and “*deceptive or unfair acts or practices*” include, but are not limited to, the following acts:

- a. Misrepresenting or failing to disclose any material fact concerning a time-share.
- b. Failing to honor and comply with all provisions of a time-share instrument entered into with a purchaser.
- c. Including any time-share instrument provisions purporting to waive any right or benefit provided for purchasers under this chapter.
- d. Receiving from a prospective purchaser any money or other valuable consideration before the purchaser signs a time-share instrument.
- e. Misrepresenting the amount of time or period of time the time-share unit will be available to a purchaser.
- f. Misrepresenting the location of the offered time-share unit.
- g. Misrepresenting the size, nature, extent, qualities, or characteristics of the offered time-share unit.
- h. Misrepresenting the nature or extent of any services incident to the time-share unit.
- i. Misrepresenting the conditions under which a purchaser may exchange occupancy rights to a time-share unit in one location for occupancy rights to a time-share unit in another location.

2. If a developer or any other person subject to this chapter violates any provision of this chapter or any provision of the project or time-share instruments, any person or class of persons damaged or otherwise adversely affected by the violation shall have a claim for appropriate relief, which shall be brought in the county in which the time-share project is located or was offered or sold, in which the time-share offeror or time-share salesperson resides or is doing business upon tender of the time-share interest sold, or in which the contract was made. The court may order the developer or other person subject to this chapter to refund the purchaser the full amount paid by the purchaser, with prejudgment interest, less a portion of the amount paid representing the portion of any benefit the purchaser actually received or had the right to receive during the time preceding the tender. In all cases, the court may provide equitable relief it considers necessary or proper. The court may also award the person or class of persons reasonable attorney’s fees. This action does not limit any other remedy of the purchaser.

85 Acts, ch 155, §16

Referred to in §557A.3