

To: Glenn Oppel, Government Affairs Director, Montana Association of REALTORS®
From: Jaymie Bowditch
Re: House Bill 649
Date: February 14, 2005

Per your request, below are my comments concerning House Bill 649.

HB 649 appears to be an attempt to keep owners of timeshare units apprised of the status of the timeshare associations that manage and maintain the timeshare complex for the benefit of all the owners. HB 649 requires:

1. The registration of all associations with the Montana Secretary of State's office. HB 649 also requires the developer to notify the association of the obligation to register.
2. That the developer of the timeshare project notify the secretary of state of:
 - a. Any default in payment by the association;
 - b. a dissolution of the association; or
 - c. a transfer of the association's duties to another entity

It is with the obligations of the developer in paragraph 2 (New Section 1(b) of HB 649) that I have some potential concerns. Although I do not have a lot of practical experience with respect to timeshares it is at least possible, if not likely, that a developer is eventually no longer affiliated with a timeshare project. Yet, HB 649 purports to impose a perpetual obligation of the developer to notify the secretary of state if there are changes in the association or if the association defaults in any payment the association is obligated to make. My concern is that it is conceivable that a timeshare association would engage in conduct or activity that HB 649 would require a developer to report to the secretary of state even though the developer may not have any idea that such conduct or activity has occurred.

The obligations to report defaults, dissolution or a transfer of duties are the only obligations imposed on a developer by HB 649. The remaining obligations in HB 649 are all imposed on associations and I think, generally speaking, are not something MAR should be concerned about. However, I am concerned about the implied requirement HB 649 imposes on developers to maintain some level of perpetual oversight of the associations in timeshare projects the developer constructs.