

## Exchange Programs

**ORS 94.826 Information on exchange program; content.** (1) A seller offering an exchange program to a purchaser in conjunction with a timeshare plan shall provide written information to the purchaser about the exchange program.

(2) The exchange program information to be provided to the purchaser shall be established by rule by the Real Estate Commissioner and shall include at least:

(a) The name and address of the exchange company;

(b) Whether or not the purchaser's participation in the exchange program is dependent upon the timeshare plan's continued affiliation with the exchange program;

(c) Whether or not the purchaser's participation in the exchange program is voluntary;

(d) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange program, and the procedure for modifying the exchange program contract;

(e) The procedure to qualify for and effectuate an exchange;

(f) A description of any limitation, restriction or priority system employed in the operation of the exchange program;

(g) The circumstances under which a purchaser may lose the use and occupancy of the purchaser's accommodation in any properly applied for exchange through the exchange program;

(h) Any fee for participation in the exchange program; and

(i) Any other information material to the exchange program which, by omission, tends to make the information otherwise disclosed misleading.

(3) The exchange program information shall be in addition to the information found in the public report required under ORS 94.828 (1), (2) and (4) and must be provided to the purchaser before a contract may be executed between the purchaser and the company offering the exchange program.

(4) An exchange company offering an exchange program to purchasers in Oregon shall file the information required in subsection (2) of this section annually with the commissioner.

(5) Only a timeshare owner and a developer other than a seller may participate in an exchange program. [1983 c.530 §21]

## OAR 863-030-0075

(1) A seller or developer who offers an exchange program to a purchaser in conjunction with a timeshare plan shall be responsible for the delivery of the exchange program information, if the offer is made in conjunction with and at the time of the purchase of a timeshare interest. An exchange company offering an exchange program directly to purchasers on its own behalf shall be responsible for the delivery of the exchange program information. The accuracy of the exchange program information is the responsibility of the exchange company and not the buyer or developer. The exchange program information provided to a purchaser shall include the written information required under subsection (2) of ORS 94.826, and the following: The names and addresses of all the officers and directors of the exchange company.

(a) Whether the purchaser's contract with the exchange program is separate and distinct from the purchaser's contract with the developer of the timeshare plan;

(b) A complete description of all limitations, restrictions or priorities employed in the operation of the exchange program, including but not limited to, limitations on exchanges based on season, unit size or levels of occupancy; and, if the limitations, restrictions, or priorities are not applied uniformly by the exchange program, a complete description of the manner of their application;

(c) Whether exchanges are arranged on a space available basis and whether the exchange company guarantees fulfillment of specific requests for exchanges;

(d) Whether the fees for participation in the exchange program may be altered and the method for alteration;

(e) The names and locations of all accommodations and facilities included in the timeshare plans participating in the exchange program;

(f) The number of timeshare accommodations in each timeshare plan which are available for occupancy and which qualify for participation in the exchange program.

(g) The number of currently enrolled purchasers and owners at each timeshare plan participating in the exchange program.

(h) The disposition made by the exchange company of timeshare periods deposited with the exchange program by purchasers and owners enrolled in the exchange program.

(2) The seller of a timeshare plan shall use and represent only the most current information on file with the commissioner under this rule when offering a timeshare plan, including an exchange program, to purchasers. It is sufficient for the developer and the exchange company referred to in this rule to rely upon the most current directory or other publication prepared and distributed by the exchange company, which includes the information referred to in this rule.

Stat. Auth.: ORS 92, ORS 94 & ORS 696

Stats. Implemented: ORS 94.826

Hist.: REC 2-1982, f. 5-3-82, ef. 5-15-82; REC 1-1983(Temp), f. & ef. 8-3-83; REC 1-1984, f. 1-26-84, ef. 2-1-84 ; REA 2-2003, f. 6-30-03, cert. ef. 7-1-03

**ORS 94.826**

- \_\_\_\_\_ The name and address of the exchange company;
- \_\_\_\_\_ Whether the purchaser's is dependent upon the timeshare's continued affiliation
- \_\_\_\_\_ Whether the purchaser's participation is voluntary;
- \_\_\_\_\_ Description of the terms and conditions of the purchaser's contractual relationship with the exchange program, and the procedure for modifying the contract;
- \_\_\_\_\_ The procedure to qualify for and effectuate an exchange;
- \_\_\_\_\_ Any limitation, restriction or priority system in the operation of the exchange program;
- \_\_\_\_\_ Circumstances which a purchaser may lose the use and occupancy of the purchaser's accommodation in any properly applied for
- \_\_\_\_\_ Any fee for participation in the exchange program; and

**OAR 863-030-0075**

- \_\_\_\_\_ The names and addresses of all the officers and directors of the exchange company.
- \_\_\_\_\_ Whether the purchaser's contract is separate and distinct from the purchaser's contract of the timeshare plan;
- \_\_\_\_\_ Description of limitations, restrictions or priorities of the exchange program - including limits on exchanges based on season, unit size or levels of occupancy and how applied
- \_\_\_\_\_ Whether exchanges are arranged on a space available basis and whether the exchange guarantees fulfillment of specific requests for exchanges;
- \_\_\_\_\_ Whether the fees for participation in the exchange program may be altered and the method for alteration;
- \_\_\_\_\_ The names and locations of all accommodations and facilities included in the timeshare plans participating in the exchange program;
- \_\_\_\_\_ The number of timeshare accommodations in each timeshare plan which are available for occupancy and which qualify for participation in the exchange program.
- \_\_\_\_\_ Number of currently enrolled purchasers and owners at each timeshare plan participating in the exchange program.
- \_\_\_\_\_ The disposition made by the exchange company of timeshare periods deposited with the exchange program by purchasers and owners enrolled in the exchange program.