

HUD/Interstate Land Jurisdiction

If the project is subject to HUD/Interstate Land jurisdiction, the Public Report should include any extra rescission rights that are provided by federal law.

Out-of-State Projects

In the case of out-of-state projects, the California cancellation rights will apply regardless of any rights of cancellation in effect where the project is located.

TRUSTS – SECTIONS 11254, 11255 AND REGULATION 2807.3

Section 11254 requires that title to each accommodation in any time-share use plan and in those time-share estate plans that are subject to monetary encumbrances be conveyed to a trustee or an association. (See comments under *Subordination* for exceptions.)

Any time dwelling units in a time-share project are conveyed to a trustee under a trust agreement, the Deputy must ensure compliance with all provisions of Sections 11254 and 11255.

Trust Agreement

In a typical time-share trust agreement, the developer is the trustor, a bank is the trustee, the holders of the underlying encumbrances are the primary beneficiaries; the developer is the secondary beneficiary, and the owners' association is a third party beneficiary if not a party.

Trust for Time-Share Use Projects

When the property is a time-share use project that is not subject to blanket encumbrances, the trust is essentially a passive one, and must include the provisions listed in Section 11255(d).

DRE Legal Review

All trust agreements in time-share projects are to be reviewed by the Department's Legal staff. The Deputy assigned to the file must also review the trust. Particular attention should be paid to the following provisions when and/or if required to be part of the trust:

Transfer Prior to Close of Escrow

All property to be conveyed to a trustee must be transferred to the trust prior to the closing of the escrow for the first sale of a time-share interest in the accommodation in accordance with Sections 11254 and 11255.

Whenever title is to be transferred to a trustee pursuant to Sections 11254 and/or 11255, evidence of the conveyance must be submitted as part of the filing prior to issuance of a Final Public Report.

Termination of Trust

A trust for a time-share use plan may not terminate before the termination of all of the use rights; a time-share estate trust may terminate at any time after the blanket monetary encumbrances have been paid off.

Deposits to Trust

Ensure the provisions of the trust instrument clearly spell out the requirements and the procedures for insuring that adequate funds, contracts and/or promissory notes are deposited into the trust by the developer as funds are disbursed or notes and contracts paid off.