

TRAVEL-TIMESHARES-VACATIONS

Need a vacation? Before you start relaxing to the sound of the waves or skiing the slopes, do some smart travel shopping first — not only to end up with a great trip and a good deal, but also to avoid a scam.

Travel clubs are a popular way for consumers to “see the world.” Many travel clubs promise alluring trips to exotic locations which include first-class accommodations, seemingly unlimited amenities and rock-bottom prices. While some deliver these things, others simply get the money and leave you stranded. Deal with businesses you trust, get a copy of the company’s cancellation and refund policies, and ask “What if...?” And if someone says you’ve won a “free” vacation but need to pay? Just walk away.

SIGNS OF A TRAVEL SCAM

- If you are offered a travel deal by email, it's almost certainly a scam. Just about all bulk email travel deals (or free vacations) are scams.
- "If it sounds too good to be true..." Wouldn't we all love to believe that we just won an all-expenses-paid trip to the Bahamas or a weekend at Disneyland? Listen for the details – or read the “fine print”.
- Never give your credit card number over the phone unless you made the phone call and you know that you're dealing with a reputable company. You should never have to disclose any other personal details, like your checking account or social security number.
- If you think you are interested in the offer, always ask what's NOT included: 'service charges,' 'processing fees,' and taxes are typically added on after the fact -- and you'll be expected to pay for them. Ask for specific details. Many travel scams are based on really vague information, for example, they'll use phrases like 'major airline' without naming an actual airline.
- Never dial a 900 number to reach a travel agency or club. No legitimate company requires you to pay for a 900 call to phone their customer service desk. Also, beware of calling numbers with 809, 758, or 664 area codes. Many phone numbers seem ordinary, but are actually similar to unregulated 900 numbers located in the Caribbean – and you could be charged exorbitant per minute rates.

Whether reserving a hotel room, buying plane tickets or making other travel arrangements, following these tips will help you ensure you get exactly what you planned for:

- **Plan as far ahead as you can.** Special deals on hotel rooms and airline seats often sell out

SOUTH DAKOTA OFFICE OF ATTORNEY GENERAL

**CONSUMER
PROTECTION**

1302 E Hwy 14 Ste 3 • Pierre SD 57501   consumerhelp@state.sd.us

1-800-300-1986

This handout is for informational purposes and should not be construed as legal advice or as a policy of the South Dakota Attorney General. If you need advice on a particular issue, you should consult a private attorney or other experts.

WWW.CONSUMER.SD.GOV • 605-773-4400 • 1-800-300-1986

very quickly.

- **Be flexible in your travel plans.** Hotels usually offer better rates on days when they expect fewer guests. Once you get a fare quote from an airline, ask if you could save money by leaving a day earlier or later, by taking a different flight on the same day, or using a different airport. Changing planes during your trip is sometimes cheaper than a nonstop flight.
- **Check out the seller.** Ask tour operators and travel agents whether they belong to a professional association, then check to see if they are members in good standing. Contact **Consumer Protection at 1-800-300-1986** to find out their complaint history.
- **Comparison shop.** Determine the complete cost of the trip in dollars, including all service charges, taxes, processing fees, etc.
- **Beware of unusually cheap prices and freebies.** It could be a scam and you could end up paying more in the end.
- **Make sure you understand the terms of the deal.** If you're told that you've won a free vacation, ask if you have to buy something else in order to get it. If the destination is a beach resort, ask the seller how far the hotel is from the beach. Then ask the hotel.
- **Ask about cancellation policies.** You may want to look into trip insurance for added protection. There are websites that offer pricing and policy information on plans from different companies and describes the different forms of policies available.
- **Insist on written confirmations.** Ask for written proof of reservations and dates.
- **Pay by credit card.** It's not unusual to make a deposit or even pay in full for travel services before the trip. A credit card gives you the right to dispute charges for services that were misrepresented or never delivered. If a travel agent or service provider tells you that you can't leave for at least two months, be very cautious-the deadline for disputing a credit card charge is sixty (60) days and most scam artists know this.

TIMESHARE VACATION PLANS

The thought of owning a vacation home may sound appealing, but the year-round responsibility and expenses that come with it may not. Buying a timeshare or vacation plan may be an alternative. If you're thinking about opting for a timeshare or vacation plan, it's a good idea to do some homework. If you're not careful, you could end up having a hard time selling your timeshare.

The Basics of Buying a Timeshare. Two basic vacation ownership options are available: timeshares and vacation interval plans. The value of these options is in their use as vacation destinations, not as investments. Because so many timeshares and vacation interval plans are available, the resale value of yours is likely to be a good deal lower than what you paid. Both a timeshare and a vacation interval plan require you to pay an initial purchase price and periodic maintenance fees. The initial purchase price may be paid all at once or over time; periodic maintenance fees are likely to increase every year.

Deeded Timeshare Ownership. In a timeshare, you either own your vacation unit for the rest of your life, for the number of years spelled out in your purchase contract, or until you sell it. Your interest is legally considered real property. You buy the right to use a specific unit at a specific time every year, and you may rent, sell, exchange, or bequeath your specific timeshare unit. You and the other timeshare owners collectively own the resort property.

Unless you've bought the timeshare outright for cash, you are responsible for paying the monthly mortgage. Regardless of how you bought the timeshare, you also are responsible for paying an an-

nual maintenance fee; property taxes may be extra. Owners share in the use and upkeep of the units and of the common grounds of the resort property. A homeowners' association usually handles management of the resort. Timeshare owners elect officers and control the expenses, the upkeep of the resort property, and the selection of the resort management company.

“Right to Use” Vacation Interval Option. In this option, a developer owns the resort, which is made up of condominiums or units. Each condo or unit is divided into “intervals” — either by weeks or the equivalent in points. You purchase the right to use an interval at the resort for a specific number of years — typically between 10 and 50 years. The interest you own is legally considered personal property. The specific unit you use at the resort may not be the same each year. In addition to the price for the right to use an interval, you pay an annual maintenance fee that is likely to increase each year.

Before You Buy a Timeshare. In calculating the total cost of a timeshare or vacation plan, include mortgage payments and expenses, like travel costs, annual maintenance fees and taxes, closing costs, broker commissions, and finance charges. Maintenance fees can rise at rates that equal or exceed inflation, so ask whether your plan has a fee cap. You must pay fees and taxes, regardless of whether you use the unit.

To help evaluate the purchase, compare these costs with the cost of renting similar accommodations with similar amenities in the same location for the same time period. If you find that buying a timeshare or vacation plan makes sense, comparison shopping is your next step.

- Evaluate the location and quality of the resort, as well as the availability of units. Visit the facilities and talk to current timeshare or vacation plan owners about their experiences. Local real estate agents also can be good sources of information. Check for complaints about the resort developer and management company with the state Attorney General and local consumer protection officials.
- Research the track record of the seller, developer, and management company before you buy. Ask for a copy of the current maintenance budget for the property. Investigate the policies on management, repair, and replacement furnishings, and timetables for promised services. You also can search online for complaints.
- Get a handle on all the obligations and benefits of the timeshare or vacation plan purchase. Is everything the salesperson promises written into the contract? If not, walk away from the sale.
- Don't act on impulse or under pressure. Purchase incentives may be offered while you are touring or staying at a resort. While these bonuses may present a good value, the timing of a purchase is your decision. You have the right to get all promises and representations in writing, as well as a public offering statement and other relevant documents.
- Study the paperwork outside of the presentation environment and, if possible, ask someone who is knowledgeable about contracts and real estate to review it before you make a decision.
- Get the name and phone number of someone at the company who can answer your questions, before, during, and after the sales presentation, and after your purchase.
- Ask about your ability to cancel the contract, sometimes referred to as a “right of rescission.” Many states (and maybe your contract) give you a right of rescission, but the amount of time you have to cancel may vary. State law or your contract also may specify a “cooling-off peri-

od” which is how long you have to cancel the deal once you’ve signed the papers. If a right of rescission or a cooling-off period isn’t required by law, ask that it be included in your contract.

- If, for some reason, you decide to cancel the purchase, either through your contract or state law, do it in writing. Send your letter by certified mail, and ask for a return receipt so you can document what the seller received. Keep copies of your letter and any enclosures. You should receive a prompt refund of any money you paid, as provided by law.
- Use an escrow account if you’re buying an undeveloped property, and get a written commitment from the seller that the facilities will be finished as promised. That’s one way to help protect your contract rights if the developer defaults. Make sure your contract includes clauses for “non-disturbance” and “non-performance.” A non-disturbance clause ensures that you’ll be able to use your unit or interval if the developer or management firm goes bankrupt or defaults. A non-performance clause lets you keep your rights, even if your contract is bought by a third party. You may want to contact an attorney who can provide you with more information about these provisions.

Use Caution. Be wary of offers to buy timeshares or vacation plans in foreign countries. If you sign a contract outside the U.S. for a timeshare or vacation plan in another country, you are not protected by U.S. laws.

Timeshare Exchange Systems. An exchange allows a timeshare or vacation plan owner to trade units with another owner who has an equivalent unit at an affiliated resort within the system. Here’s how it works: A resort developer has a relationship with an exchange company, which administers the service for owners at the resort. Owners become members of the exchange system when they buy their timeshare or vacation plan. At most resorts, the developer pays for each new member’s first year of membership in the exchange company, but members pay the exchange company directly after that.

To participate, a member must deposit a unit into the exchange company’s inventory of weeks available for exchange. When a member takes a week from the inventory, the exchange company charges a fee.

In a points-based exchange system, the interval is automatically put into the inventory system for a specified period when the member joins. Point values are assigned to units based on length of stay, location, unit size, and seasonality. Members who have enough points to secure the vacation accommodations they want can reserve them on a space-available basis. Members who don’t have enough points may want to investigate programs that allow banking of prior-year points, advancing points, or even “renting” extra points to make up differences.

Whether the exchange system works satisfactorily for owners is another issue to look into before buying. Keep in mind that you will pay all fees and taxes in an exchange program whether you use your unit or someone else’s.

SELLING A TIMESHARE THROUGH A RESELLER

If you’re thinking of selling a timeshare, contact resellers, such as real estate brokers and agents, who specialize in reselling timeshares. Be cautious of those claiming that the market in your area is “hot” and that they’re overwhelmed with buyer requests. Some may even say that they have buyers ready to purchase your timeshare, or promise to sell your timeshare within a specific time.

If you want to sell your deeded timeshare, and a company approaches you offering to resell your timeshare, go into skeptic mode.

- Don't agree to anything on the phone or online until you've had a chance to check out the reseller. Contact the state Attorney General and local consumer protection agencies in the state where the reseller is located. Ask if any complaints are on file. You also can search online for complaints.
- Ask the salesperson for all information in writing.
- Ask if the reseller's agents are licensed to sell real estate where your timeshare is located. If so, verify it with the state Real Estate Commission. Deal only with licensed real estate brokers and agents, and ask for references from satisfied clients.
- Ask how the reseller will advertise and promote the timeshare unit. Will you get progress reports? How often?
- Ask about fees and timing. It's preferable to do business with a reseller that takes its fee after the timeshare is sold. If you must pay a fee in advance, ask about refunds. Get refund policies and promises in writing.
- Don't assume you'll recoup your purchase price for your timeshare, especially if you've owned it for less than five years and the location is less than well-known.

If you want an idea of the value of a timeshare that you're interested in buying or selling, consider using a timeshare appraisal service. The appraiser should be licensed in the state where the service is located. Check with the state to see if the license is current.

Contract Caveats. Before you sign a contract with a reseller, get the details of the terms and conditions of the contract. It should include the services the reseller will perform; the fees, commissions, and other costs you must pay and when; whether you can rent or sell the timeshare on your own at the same time the reseller is trying to sell your unit; the length or term of the contract to sell your timeshare; and who is responsible for documenting and closing the sale. If the deal isn't what you expected or wanted, don't sign the contract. Negotiate changes or find another reseller.

To learn more about vacation ownership, contact the American Resort Development Association at (202) 371-6700 or at www.arda.org. It represents the vacation ownership and resort development industries. ARDA has nearly 1,000 members, ranging from privately-held companies to major corporations, in the U.S. and overseas.