



841312

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete lines 56 - 177
and insert:
regime, the term, except as to any timeshare interest, timeshare unit, or other unit that is specifically subject to, or otherwise dedicated to, the multisite timeshare plan, does not include a developer; an owner of the underlying fee or owner of the underlying personal property; a mortgagee, judgment creditor, or other lienor; or any other person having an



841312

11 interest in or lien or encumbrance against a timeshare interest
12 in such single-site timeshare plan, or an interest in or lien or
13 encumbrance against a timeshare unit or other unit in such
14 condominium or property regime. This paragraph is intended only
15 as a clarification of existing law.

16 Section 2. Subsection (11) is added to section 721.08,
17 Florida Statutes, to read:

18 721.08 Escrow accounts; nondisturbance instruments;
19 alternate security arrangements; transfer of legal title.—

20 (11) A timeshare instrument, declaration of condominium, or
21 other instrument establishing or governing a component site
22 property regime is not an encumbrance for purposes of this
23 chapter and does not create a requirement for a nondisturbance
24 and notice to creditors instrument for purposes of this section
25 or a subordination and notice to creditors instrument for
26 purposes of s. 721.53 from the managing entity, owners'
27 association, or any other person. This subsection is intended
28 only as a clarification of existing law.

29 Section 3. Section 721.125, Florida Statutes, is amended to
30 read:

31 721.125 ~~Extension or~~ Termination of timeshare plans.—

32 (1) Unless the timeshare instrument provides otherwise, the
33 vote or written consent, or both, of 60 percent of all voting
34 interests in a timeshare plan may ~~extend or~~ terminate the term
35 of the timeshare plan at any time. ~~If the term of a timeshare~~
36 ~~plan is extended pursuant to this section, all rights,~~
37 ~~privileges, duties, and obligations created under applicable law~~
38 ~~or the timeshare instrument continue in full force to the same~~
39 ~~extent as if the extended termination date of the timeshare plan~~



841312

40 ~~were the original termination date of the timeshare plan.~~ If a
41 timeshare plan is terminated pursuant to this section, the
42 termination has immediate effect pursuant to applicable law and
43 the timeshare instrument as if the effective date of the
44 termination were the original date of termination.

45 (2) If a termination ~~or extension~~ vote or consent pursuant
46 to subsection (1) is proposed for a component site of a
47 multisite timeshare plan located in this state, the proposed
48 termination ~~or extension~~ is effective only if the person
49 authorized to make additions or substitutions of accommodations
50 and facilities pursuant to the timeshare instrument also
51 approves the termination ~~or extension~~.

52 (3) (a) If the timeshare property is managed by an owners'
53 association that is separate from any underlying condominium,
54 cooperative, or homeowners' association, the termination of a
55 timeshare plan does not change the corporate status of the
56 owners' association. The owners' association continues to exist
57 only for the purposes of concluding its affairs, prosecuting and
58 defending actions by or against it, collecting and discharging
59 obligations, disposing of and conveying its property, collecting
60 and dividing its assets, and otherwise complying with this
61 subsection.

62 1. After termination of a timeshare plan, the board of
63 administration of the owners' association shall serve as the
64 termination trustee, and in such fiduciary capacity may bring an
65 action in partition on behalf of the tenants in common in each
66 former timeshare property or sell the former timeshare property
67 in any manner and to any person who is approved by a majority of
68 all such tenants in common. The termination trustee also has all



841312

69 other powers reasonably necessary to effect the partition or
70 sale of the former timeshare property, including the power to
71 maintain the property during the pendency of any partition
72 action or sale.

73 2. All reasonable expenses incurred by the termination
74 trustee relating to the performance of its duties pursuant to
75 this subsection, including the reasonable fees of attorneys and
76 other professionals, must be paid by the tenants in common of
77 the former timeshare property subject to partition or sale,
78 proportionate to their respective ownership interests.

79 3. The termination trustee shall adopt reasonable
80 procedures to implement the partition or sale of the former
81 timeshare property and comply with the requirements of this
82 subsection.

83 (b) If a timeshare plan is terminated in a timeshare
84 condominium or timeshare cooperative and the underlying
85 condominium or cooperative is not simultaneously terminated, a
86 majority of the tenants in common in each former timeshare unit
87 present and voting in person or by proxy at a meeting of such
88 tenants in common conducted by the termination trustee, or
89 conducted by the board of administration of the condominium or
90 cooperative association, if such association managed the former
91 timeshare property, shall designate a voting representative for
92 the unit and file a voting certificate with the condominium or
93 cooperative association. The voting representative may vote on
94 all matters at meetings of the condominium or cooperative
95 association, including termination of the condominium or
96 cooperative.

97 (4)~~(3)~~ This section applies only to a timeshare plan that



841312

98 has been in existence for at least 25 years as of the effective
99 date of the termination ~~or extension~~ vote or consent required by
100 subsection (1).

101 Section 4. Section 721.1255, Florida Statutes, is created
102 to read:

103 721.1255 Extension of timeshare plans.-

104 (1) (a) The Legislature finds that timeshare plans are
105 created as authorized by statute. Most of the older timeshare
106 properties located in this state are based on a condominium
107 structure, and many of these older timeshare properties are
108 approaching the termination dates set forth in their timeshare
109 instruments.

110 (b) The Legislature further finds that there are many older
111 timeshare properties located in this state which have been well-
112 maintained over the years and continue to be financially
113 supported, used, and enjoyed by their owners, exchangers,
114 guests, renters, and others. In order to preserve the continued
115 use, enjoyment, tax values, and overall viability of these
116 timeshare properties, the Legislature further finds that the
117 public policy of this state requires the creation of a statutory
118 method to enable the owners of these timeshare properties to
119 extend the terms of their timeshare plans, notwithstanding
120 contrary provisions in their timeshare instruments which may
121 create uncertainty for purchasers, prospective purchasers, and
122 lenders, and which may discourage the ongoing maintenance,
123 refurbishment, and improvement of these timeshare properties.

124 (2) (a) Unless the timeshare instrument specifically
125 provides a lower percentage, the vote or written consent, or
126 both, of at least 66 percent of all eligible voting interests



841312

127 present in person or by proxy at a duly noticed, called, and
128 constituted