

By Senator Hutson

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1                   A bill to be entitled  
2           An act relating to timeshares; amending s. 721.05,  
3           F.S.; revising the definition of the term  
4           "interestholder" to clarify that the term does not  
5           include certain parties to a certain multisite  
6           timeshare plan; amending s. 721.08, F.S.; clarifying  
7           current law; providing that certain instruments are  
8           not an encumbrance as they relate to certain vacation  
9           and timeshare plans; amending s. 721.125, F.S.;  
10          revising requirements for the termination of a  
11          timeshare plan; providing that the termination of a  
12          timeshare plan does not change the corporate status of  
13          an owners' association under certain circumstances;  
14          providing that the owners' association continues to  
15          exist until certain affairs are concluded; requiring  
16          the board of administration of the owners' association  
17          to serve as the termination trustee after termination  
18          of a timeshare plan; providing powers of the  
19          termination trustee; specifying that certain expenses  
20          incurred by the termination trustee must be borne by  
21          the tenants of a former timeshare property; requiring  
22          the termination trustee to adopt certain procedures to  
23          implement the partition or sale of a former timeshare  
24          property; requiring a voting representative to be  
25          designated under certain circumstances; specifying the  
26          voting rights of the voting representative; conforming  
27          provisions to changes made by the act; creating s.  
28          725.1255, F.S.; providing legislative findings;  
29          specifying the percentage of votes required to extend  
30          the term of a timeshare plan under certain  
31          circumstances; specifying what constitutes a quorum  
32          under certain circumstances; specifying that a meeting

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33 to extend a timeshare plan may be held at any time;  
34 authorizing an owners' association to determine if a  
35 person or entity holding a voting interest is  
36 ineligible to vote, subject to certain requirements;  
37 specifying the maximum duration of validity of a  
38 proxy; providing that a proxy for a vote is revocable  
39 unless otherwise stated; specifying requirements for  
40 certain extension votes to be effective; providing  
41 applicability; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Subsection (21) of section 721.05, Florida  
46 Statutes, is amended to read:

47 721.05 Definitions.—As used in this chapter, the term:

48 (21) (a) "Interestholder" means a developer, an owner of the  
49 underlying fee or owner of the underlying personal property, a  
50 mortgagee, judgment creditor, or other lienor, or any other  
51 person having an interest in or lien or encumbrance against the  
52 accommodations or facilities of the timeshare plan.

53 (b) With respect to a multisite timeshare plan governed by  
54 part II which contains a component site that is also part of a  
55 single-site timeshare plan or condominium or other property  
56 regime, the term does not include a developer; an owner of the  
57 underlying fee or owner of the underlying personal property; a  
58 mortgagee, judgment creditor, or other lienor; or any other  
59 person having an interest in or lien or encumbrance against a  
60 timeshare interest in such single-site timeshare plan, or an  
61 interest in or lien or encumbrance against a unit in such

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62 condominium or property regime, except as to any timeshare  
63 interest or unit that is specifically subject to, or otherwise  
64 dedicated to, the multisite timeshare plan. This paragraph is  
65 intended only as a clarification of existing law.

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

68 721.08 Escrow accounts; nondisturbance instruments;  
69 alternate security arrangements; transfer of legal title.-

70 (11) A timeshare instrument, declaration of condominium, or  
71 other instrument establishing or governing a component site  
72 property regime is not an encumbrance for purposes of this  
73 chapter and does not require a nondisturbance and notice to  
74 creditors instrument for purposes of this section or a  
75 subordination and notice to creditors instrument for purposes of  
76 s. 721.53 from the managing entity, owners' association, or any  
77 other person. This subsection is intended only as a  
78 clarification of existing law.

79 Section 3. Section 721.125, Florida Statutes, is amended to  
80 read:

81 721.125 ~~Extension or~~ Termination of timeshare plans.-

82 (1) Unless the timeshare instrument provides otherwise, the  
83 vote or written consent, or both, of 60 percent of all voting  
84 interests in a timeshare plan may ~~extend or~~ terminate the term  
85 of the timeshare plan at any time. ~~If the term of a timeshare~~  
86 ~~plan is extended pursuant to this section, all rights,~~  
87 ~~privileges, duties, and obligations created under applicable law~~  
88 ~~or the timeshare instrument continue in full force to the same~~  
89 ~~extent as if the extended termination date of the timeshare plan~~  
90 ~~were the original termination date of the timeshare plan. If a~~

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91 timeshare plan is terminated pursuant to this section, the  
92 termination has immediate effect pursuant to applicable law and  
93 the timeshare instrument as if the effective date of the  
94 termination were the original date of termination.

95 (2) If a termination ~~or extension~~ vote or consent pursuant  
96 to subsection (1) is proposed for a component site of a  
97 multisite timeshare plan located in this state, the proposed  
98 termination ~~or extension~~ is effective only if the person  
99 authorized to make additions or substitutions of accommodations  
100 and facilities pursuant to the timeshare instrument also  
101 approves the termination ~~or extension~~.

102 (3) (a) If the timeshare property is managed by an owners'  
103 association that is separate from any underlying condominium,  
104 cooperative, or homeowners' association, the termination of a  
105 timeshare plan does not change the corporate status of the  
106 owners' association. The owners' association continues to exist  
107 only for the purposes of concluding its affairs, prosecuting and  
108 defending actions by or against it, collecting and discharging  
109 obligations, disposing of and conveying its property, collecting  
110 and dividing its assets, and otherwise complying with this  
111 subsection.

112 1. After termination of a timeshare plan, the board of  
113 administration of the owners' association shall serve as the  
114 termination trustee, and in such fiduciary capacity may bring an  
115 action in partition on behalf of the tenants in common in each  
116 former timeshare property or sell the former timeshare property  
117 in any manner and to any person who is approved by a majority of  
118 all such tenants in common. The termination trustee also has all  
119 other powers reasonably necessary to effect the partition or

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120 sale of the former timeshare property, including the power to  
121 maintain the property during the pendency of any partition  
122 action or sale.

123 2. All reasonable expenses incurred by the termination  
124 trustee relating to the performance of its duties pursuant to  
125 this subsection, including the reasonable fees of attorneys and  
126 other professionals, must be paid by the tenants in common of  
127 the former timeshare property subject to partition or sale,  
128 proportionate to their respective ownership interests.

129 3. The termination trustee shall adopt reasonable  
130 procedures to implement the partition or sale of the former  
131 timeshare property and comply with the requirements of this  
132 subsection.

133 (b) If a timeshare plan is terminated in a timeshare  
134 condominium or timeshare cooperative and the underlying  
135 condominium or cooperative is not simultaneously terminated, a  
136 majority of the tenants in common in each former timeshare unit  
137 present and voting in person or by proxy at a meeting of such  
138 tenants in common conducted by the termination trustee, or  
139 conducted by the board of administration of the condominium or  
140 cooperative association, if such association managed the former  
141 timeshare property, shall designate a voting representative for  
142 the unit and file a voting certificate with the condominium or  
143 cooperative association. The voting representative may vote on  
144 all matters at meetings of the condominium or cooperative  
145 association, including termination of the condominium or  
146 cooperative.

147 (4)~~(3)~~ This section applies only to a timeshare plan that  
148 has been in existence for at least 25 years as of the effective

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149 date of the termination ~~or extension~~ vote or consent required by  
150 subsection (1).

151 Section 4. Section 721.1255, Florida Statutes, is created  
152 to read:

153 721.1255 Extension of timeshare plans.-

154 (1) (a) The Legislature finds that timeshare plans are  
155 created as authorized by statute. Most of the older timeshare  
156 properties located in this state are based on a condominium  
157 structure, and many of these older timeshare properties are  
158 approaching the termination dates set forth in their timeshare  
159 instruments.

160 (b) The Legislature further finds that there are many older  
161 timeshare properties located in this state which have been well-  
162 maintained over the years and continue to be financially  
163 supported, used, and enjoyed by their owners, exchangers,  
164 guests, renters, and others. In order to preserve the continued  
165 use, enjoyment, tax values, and overall viability of these  
166 timeshare properties, the Legislature further finds that the  
167 public policy of this state requires the creation of a statutory  
168 method to enable the owners of these timeshare properties to  
169 extend the terms of their timeshare plans, notwithstanding  
170 contrary provisions in their timeshare instruments which may  
171 create uncertainty for purchasers, prospective purchasers, and  
172 lenders, and which may discourage the ongoing maintenance,  
173 refurbishment, and improvement of these timeshare properties.

174 (2) (a) Unless the timeshare instrument specifically  
175 provides a lower percentage, the vote or written consent, or  
176 both, of at least 66 percent of all eligible voting interests  
177 present in person or by proxy at a duly called and constituted

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178 meeting of the owners' association may, at any time, extend the  
179 term of the timeshare plan. If the term of a timeshare plan is  
180 extended pursuant to this section, all rights, privileges,  
181 duties, and obligations created under applicable law or the  
182 timeshare instrument continue in full force to the same extent  
183 as if the extended termination date of the timeshare plan were  
184 the original termination date of the timeshare plan.

185 (b) Unless the timeshare instrument specifically provides  
186 for a lower quorum, the quorum for the owners' association  
187 meeting described in paragraph (a) is 50 percent of all eligible  
188 voting interests in the timeshare plan.

189 (c) The owners' association meeting described in paragraph  
190 (a) may be held at any time.

191 (d) The board of administration of the owners' association  
192 may determine that any person or entity holding a voting  
193 interest who is delinquent in the payment of more than 2 years  
194 of assessments is ineligible to vote on any extension of the  
195 timeshare plan unless the delinquency is paid in full before the  
196 vote.

197 (e) A proxy for a vote to extend a timeshare plan pursuant  
198 to this section may be valid for a period of up to 3 years and  
199 is revocable unless it states that it is irrevocable.

200 (3) If an extension vote or consent pursuant to this  
201 section is proposed for a component site of a multisite  
202 timeshare plan located in this state, the proposed extension is  
203 effective only if the person authorized to make additions or  
204 substitutions of accommodations and facilities pursuant to the  
205 timeshare instrument also approves the extension.

206 (4) This section applies to all timeshare properties

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207 located in this state.

208 Section 5. This act shall take effect upon becoming a law.