

By the Committee on Regulated Industries; and Senator Hutson

580-02237-17

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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

580-02237-17

2017818c1

30 the term of a timeshare plan under certain
31 circumstances; specifying what constitutes a quorum
32 under certain circumstances; specifying that a meeting
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, except as to any timeshare interest, timeshare
57 unit, or other unit that is specifically subject to, or
58 otherwise dedicated to, the multisite timeshare plan, does not

580-02237-17

2017818c1

59 include a developer; an owner of the underlying fee or owner of
60 the underlying personal property; a mortgagee, judgment
61 creditor, or other lienor; or any other person having an
62 interest in or lien or encumbrance against a timeshare interest
63 in such single-site timeshare plan, or an interest in or lien or
64 encumbrance against a timeshare unit or other unit in such
65 condominium or property regime. This paragraph is intended only
66 as a clarification of existing law.

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

69 721.08 Escrow accounts; nondisturbance instruments;
70 alternate security arrangements; transfer of legal title.—

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

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

82 721.125 ~~Extension or~~ Termination of timeshare plans.—

83 (1) Unless the timeshare instrument provides otherwise, the
84 vote or written consent, or both, of 60 percent of all voting
85 interests in a timeshare plan may ~~extend or~~ terminate the term
86 of the timeshare plan at any time. ~~If the term of a timeshare~~
87 ~~plan is extended pursuant to this section, all rights,~~

580-02237-17

2017818c1

88 ~~privileges, duties, and obligations created under applicable law~~
89 ~~or the timeshare instrument continue in full force to the same~~
90 ~~extent as if the extended termination date of the timeshare plan~~
91 ~~were the original termination date of the timeshare plan.~~ If a
92 timeshare plan is terminated pursuant to this section, the
93 termination has immediate effect pursuant to applicable law and
94 the timeshare instrument as if the effective date of the
95 termination were the original date of termination.

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

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

113 1. After termination of a timeshare plan, the board of
114 administration of the owners' association shall serve as the
115 termination trustee, and in such fiduciary capacity may bring an
116 action in partition on behalf of the tenants in common in each

580-02237-17

2017818c1

117 former timeshare property or sell the former timeshare property
118 in any manner and to any person who is approved by a majority of
119 all such tenants in common. The termination trustee also has all
120 other powers reasonably necessary to effect the partition or
121 sale of the former timeshare property, including the power to
122 maintain the property during the pendency of any partition
123 action or sale.

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

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

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

580-02237-17

2017818c1

146 association, including termination of the condominium or
147 cooperative.

148 (4)(3) This section applies only to a timeshare plan that
149 has been in existence for at least 25 years as of the effective
150 date of the termination ~~or extension~~ vote or consent required by
151 subsection (1).

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

154 721.1255 Extension of timeshare plans.-

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

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

580-02237-17

2017818c1

175 (2) (a) Unless the timeshare instrument specifically
176 provides a lower percentage, the vote or written consent, or
177 both, of at least 66 percent of all eligible voting interests
178 present in person or by proxy at a duly noticed, called, and
179 constituted meeting of the owners' association may, at any time,
180 extend the term of the timeshare plan. If the term of a
181 timeshare plan is extended pursuant to this section, all rights,
182 privileges, duties, and obligations created under applicable law
183 or the timeshare instrument continue in full force to the same
184 extent as if the extended termination date of the timeshare plan
185 were the original termination date of the timeshare plan.

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

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

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

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

201 (3) If an extension vote or consent pursuant to this
202 section is proposed for a component site of a multisite
203 timeshare plan located in this state, the proposed extension is

580-02237-17

2017818c1

204 effective only if the person authorized to make additions or
205 substitutions of accommodations and facilities pursuant to the
206 timeshare instrument also approves the extension.

207 (4) This section applies to all timeshare properties
208 located in this state.

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