

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
2 Subcommittee

3 Representative La Rosa offered the following:

**Amendment**

6 Remove lines 34-155 and insert:

7 regime, the term, except as to any timeshare interest, timeshare  
8 unit, or other unit that is specifically subject to, or  
9 otherwise dedicated to, the multisite timeshare plan, does not  
10 include a developer; an owner of the underlying fee or owner of  
11 the underlying personal property; a mortgagee, judgment  
12 creditor, or other lienor; or any other person having an  
13 interest in or lien or encumbrance against a timeshare interest  
14 in such single-site timeshare plan, or an interest in or lien or  
15 encumbrance against a timeshare unit or other unit in such

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16 condominium or property regime. This paragraph is intended only  
17 as a clarification of existing law.

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

20 721.08 Escrow accounts; nondisturbance instruments;  
21 alternate security arrangements; transfer of legal title.-

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

31 Section 3. Section 721.125, Florida Statutes, is amended  
32 to read:

33 721.125 ~~Extension or~~ Termination of timeshare plans.-

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

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Published On: 3/27/2017 6:14:37 PM

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

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

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

64 1. After termination of a timeshare plan, the board of  
65 administration of the owners' association shall serve as the

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66 termination trustee, and in such fiduciary capacity may bring an  
67 action in partition on behalf of the tenants in common in each  
68 former timeshare property or sell the former timeshare property  
69 in any manner and to any person who is approved by a majority of  
70 all such tenants in common. The termination trustee also has all  
71 other powers reasonably necessary to effect the partition or  
72 sale of the former timeshare property, including the power to  
73 maintain the property during the pendency of any partition  
74 action or sale.

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

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

85 (b) If a timeshare plan is terminated in a timeshare  
86 condominium or timeshare cooperative and the underlying  
87 condominium or cooperative is not simultaneously terminated, a  
88 majority of the tenants in common in each former timeshare unit  
89 present and voting in person or by proxy at a meeting of such  
90 tenants in common conducted by the termination trustee, or

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91 conducted by the board of administration of the condominium or  
92 cooperative association, if such association managed the former  
93 timeshare property, shall designate a voting representative for  
94 the unit and file a voting certificate with the condominium or  
95 cooperative association. The voting representative may vote on  
96 all matters at meetings of the condominium or cooperative  
97 association, including termination of the condominium or  
98 cooperative.

99 (4)~~(3)~~ This section applies only to a timeshare plan that  
100 has been in existence for at least 25 years as of the effective  
101 date of the termination ~~or extension~~ vote or consent required by  
102 subsection (1).

103 Section 4. Section 721.1255, Florida Statutes, is created  
104 to read:

105 721.1255 Extension of timeshare plans.-

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

112 (b) The Legislature further finds that there are many  
113 older timeshare properties located in this state which have been  
114 well-maintained over the years and continue to be financially  
115 supported, used, and enjoyed by their owners, exchangers,

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116 guests, renters, and others. In order to preserve the continued  
117 use, enjoyment, tax values, and overall viability of these  
118 timeshare properties, the Legislature further finds that the  
119 public policy of this state requires the creation of a statutory  
120 method to enable the owners of these timeshare properties to  
121 extend the terms of their timeshare plans, notwithstanding  
122 contrary provisions in their timeshare instruments which may  
123 create uncertainty for purchasers, prospective purchasers, and  
124 lenders, and which may discourage the ongoing maintenance,  
125 refurbishment, and improvement of these timeshare properties.

126 (2) (a) Unless the timeshare instrument specifically  
127 provides a lower percentage, the vote or written consent, or  
128 both, of at least 66 percent of all eligible voting interests  
129 present in person or by proxy at a duly noticed, called, and  
130 constituted meeting of the owners'