

2017818e1

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

2017818e1

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

2017818e1

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,~~

2017818e1

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

2017818e1

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

2017818e1

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.

2017818e1

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 held pursuant to  
191 paragraph (a) may be held at any time before the termination of  
192 the timeshare plan.

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

198 (e) A proxy for a vote to extend a timeshare plan pursuant  
199 to this section is valid for up to 3 years and is revocable  
200 unless the proxy states 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

2017818e1

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