

1 A bill to be entitled

2 An act relating to timeshare plans; amending s.  
3 721.05, F.S.; revising a definition; clarifying  
4 existing law; amending s. 721.08, F.S.; providing that  
5 certain instruments are not an encumbrance; providing  
6 applicability; clarifying existing law; amending s.  
7 721.125, F.S.; deleting provisions relating to the  
8 extension of timeshare plans; providing requirements  
9 relating to the corporate status during a termination  
10 of the timeshare plan; providing requirements for the  
11 board of administration of the owners' association;  
12 providing requirements related to expenses; providing  
13 voting requirements; creating s. 721.1255, F.S.;  
14 providing requirements related to the extension of a  
15 timeshare plan; providing legislative findings;  
16 providing applicability; providing voting, quorum, and  
17 meeting requirements; providing requirements for a  
18 vote to extend a component site of a multisite  
19 timeshare plan; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (21) of section 721.05, Florida  
24 Statutes, is amended to read:

25 721.05 Definitions.—As used in this chapter, the term:

26           (21) (a) "Interestholder" means a developer, an owner of  
 27 the underlying fee or owner of the underlying personal property,  
 28 a mortgagee, judgment creditor, or other lienor, or any other  
 29 person having an interest in or lien or encumbrance against the  
 30 accommodations or facilities of the timeshare plan.

31           (b) With respect to a multisite timeshare plan governed by  
 32 part II that contains a component site which is also part of a  
 33 single-site timeshare plan or condominium or other property  
 34 regime, the term, except as to any timeshare interest, timeshare  
 35 unit, or other unit that is specifically subject to, or  
 36 otherwise dedicated to, the multisite timeshare plan, does not  
 37 include a developer; an owner of the underlying fee or owner of  
 38 the underlying personal property; a mortgagee, judgment  
 39 creditor, or other lienor; or any other person having an  
 40 interest in or lien or encumbrance against a timeshare interest  
 41 in such single-site timeshare plan, or an interest in or lien or  
 42 encumbrance against a timeshare unit or other unit in such  
 43 condominium or property regime. This paragraph is intended only  
 44 as a clarification of existing law.

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

47           721.08 Escrow accounts; nondisturbance instruments;  
 48 alternate security arrangements; transfer of legal title.—

49           (11) A timeshare instrument, declaration of condominium,  
 50 or other instrument establishing or governing a component site

51 property regime is not an encumbrance for purposes of this  
52 chapter and does not require a nondisturbance and notice to  
53 creditors instrument for purposes of this section or a  
54 subordination and notice to creditors instrument for purposes of  
55 s. 721.53 from the managing entity, owners' association, or any  
56 other person. This subsection is intended only as a  
57 clarification of existing law.

58 Section 3. Section 721.125, Florida Statutes, is amended  
59 to read:

60 721.125 ~~Extension or~~ Termination of timeshare plans.—

61 (1) Unless the timeshare instrument provides otherwise,  
62 the vote or written consent, or both, of 60 percent of all  
63 voting interests in a timeshare plan may ~~extend or~~ terminate the  
64 term of the timeshare plan at any time. ~~If the term of a~~  
65 ~~timeshare plan is extended pursuant to this section, all rights,~~  
66 ~~privileges, duties, and obligations created under applicable law~~  
67 ~~or the timeshare instrument continue in full force to the same~~  
68 ~~extent as if the extended termination date of the timeshare plan~~  
69 ~~were the original termination date of the timeshare plan.~~ If a  
70 timeshare plan is terminated pursuant to this section, the  
71 termination has immediate effect pursuant to applicable law and  
72 the timeshare instrument as if the effective date of the  
73 termination were the original date of termination.

74 (2) If a termination ~~or extension~~ vote or consent pursuant  
75 to subsection (1) is proposed for a component site of a

76 multisite timeshare plan located in this state, the proposed  
77 termination ~~or extension~~ is effective only if the person  
78 authorized to make additions or substitutions of accommodations  
79 and facilities pursuant to the timeshare instrument also  
80 approves the termination ~~or extension~~.

81 (3) (a) If a timeshare property is managed by an owners'  
82 association that is separate from any underlying condominium,  
83 cooperative, or homeowners' association, the termination of the  
84 timeshare plan does not change the corporate status of the  
85 owners' association. The owners' association continues to exist  
86 only for the purposes of concluding its affairs, prosecuting and  
87 defending actions by or against it, collecting and discharging  
88 obligations, disposing of and conveying its property, collecting  
89 and dividing its assets, and otherwise complying with this  
90 subsection.

91 1. After termination of a timeshare plan, the board of  
92 administration of the owners' association shall serve as the  
93 termination trustee, and in such fiduciary capacity may bring an  
94 action in partition on behalf of the tenants in common in each  
95 former timeshare property or sell the former timeshare property  
96 in any manner and to any person who is approved by a majority of  
97 all such tenants in common. The termination trustee also has all  
98 other powers reasonably necessary to effect the partition or  
99 sale of the former timeshare property, including the power to  
100 maintain the property during the pendency of any partition

101 action or sale.

102 2. All reasonable expenses incurred by the termination  
103 trustee relating to the performance of its duties pursuant to  
104 this subsection, including the reasonable fees of attorneys and  
105 other professionals, must be paid by the tenants in common of  
106 the former timeshare property subject to partition or sale,  
107 proportionate to their respective ownership interests.

108 3. The termination trustee shall adopt reasonable  
109 procedures to implement the partition or sale of the former  
110 timeshare property and comply with the requirements of this  
111 subsection.

112 (b) If a timeshare plan is terminated in a timeshare  
113 condominium or timeshare cooperative and the underlying  
114 condominium or cooperative is not simultaneously terminated, a  
115 majority of the tenants in common in each former timeshare unit  
116 present and voting in person or by proxy at a meeting of such  
117 tenants in common conducted by the termination trustee, or  
118 conducted by the board of administration of the condominium or  
119 cooperative association, if such association managed the former  
120 timeshare property, shall designate a voting representative for  
121 the unit and file a voting certificate with the condominium or  
122 cooperative association. The voting representative may vote on  
123 all matters at meetings of the condominium or cooperative  
124 association, including termination of the condominium or  
125 cooperative.

126        ~~(4)(3)~~ This section applies only to a timeshare plan that  
 127 has been in existence for at least 25 years as of the effective  
 128 date of the termination ~~or extension~~ vote or consent required by  
 129 subsection (1).

130        Section 4. Section 721.1255, Florida Statutes, is created  
 131 to read:

132        721.1255 Extension of timeshare plans.—

133        (1) (a) The Legislature finds that timeshare plans are  
 134 created as authorized by general law and most of the older  
 135 timeshare properties located in this state are based on a  
 136 condominium structure and are approaching the termination dates  
 137 in their timeshare instruments.

138        (b) The Legislature further finds that there are many  
 139 older timeshare properties in this state which have been well  
 140 maintained over the years and continue to be financially  
 141 supported, used, and enjoyed by their owners, exchangers,  
 142 guests, renters, and others. In order to preserve the continued  
 143 use, enjoyment, tax values, and overall viability of these  
 144 timeshare properties, the Legislature further finds that the  
 145 public policy of this state requires the creation of a general  
 146 law to enable the owners of these timeshare properties to extend  
 147 the terms of their timeshare plans, notwithstanding contrary  
 148 provisions in their timeshare instruments which may create  
 149 uncertainty for purchasers, prospective purchasers, and lenders,  
 150 and which may discourage the ongoing maintenance, refurbishment,

151 and improvement of these timeshare properties.

152 (2) (a) Unless the timeshare instrument specifically  
153 provides a lower percentage, the vote or written consent, or  
154 both, of at least 66 percent of all eligible voting interests  
155 present in person or by proxy at a duly noticed, called, and  
156 constituted meeting of the owners' association may extend the  
157 term of the timeshare plan. If the term of a timeshare plan is  
158 extended pursuant to this section, all rights, privileges,  
159 duties, and obligations created under applicable law or the  
160 timeshare instrument continue in full force to the same extent  
161 as if the extended termination date of the timeshare plan were  
162 the original termination date of the timeshare plan.

163 (b) Unless the timeshare instrument provides for a lower  
164 quorum, the quorum for the owners' association meeting held  
165 pursuant to paragraph (a) is 50 percent of all eligible voting  
166 interests in the timeshare plan.

167 (c) The owners' association meeting held pursuant to  
168 paragraph (a) may be held at any time before the termination of  
169 the timeshare plan.

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

175 (e) A proxy for a vote to extend a timeshare plan pursuant

176 | to this section is valid for up to 3 years and is revocable  
177 | unless the proxy states it is irrevocable.

178 | (3) If an extension vote or consent pursuant to this  
179 | section is proposed for a component site of a multisite  
180 | timeshare plan located in this state, the proposed extension is  
181 | effective only if the person authorized to make additions or  
182 | substitutions of accommodations and facilities pursuant to the  
183 | timeshare instrument also approves the extension.

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