

SENATE No. 1052

The Commonwealth of Massachusetts

PRESENTED BY:

Adam G. Hinds

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act modernizing time-share extension and termination procedures.

PETITION OF:

NAME:

Adam G. Hinds

DISTRICT/ADDRESS:

Berkshire, Hampshire, Franklin and Hampden

SENATE No. 1052

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 1052) of Adam G. Hinds for legislation to modernize time-share extension and termination procedures. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 952 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act modernizing time-share extension and termination procedures.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 183B of the General Laws, as appearing in the 2018 official
2 edition, is hereby amended by striking out section 15 and inserting in place thereof the following
3 section:-

4 “Section 15.

5 (a) This section shall apply to time-share plans containing time-share estates. This
6 section shall apply to time-share licenses only to the extent expressly provided by the time-share
7 instrument.

8 (b) A time-share plan may be terminated in accordance with the following:

9 (1) After the occurrence of a duly noticed and called meeting of the association convened
10 for the purpose of discussion of the possible termination of the time-share plan, all time-shares in
11 a time-share property may be terminated by written agreement of the time-share owners having
12 at least sixty per cent of all eligible beneficial interests.

13 (2) An agreement to terminate all time-shares in a time-share property shall be evidenced
14 by the execution, in the same manner as a deed, of a termination agreement, or ratifications
15 thereof, by the requisite number of time-share owners. The termination agreement shall specify a
16 date after which it shall be void unless it is recorded on or before said date, and it may provide
17 for the establishment of a termination trust to carry out its terms and effect a sale as hereinafter
18 provided. A termination agreement and all ratifications thereof shall be recorded in the registry
19 of deeds or land registration office in every district in which a portion of the time-share property
20 is situated, and shall be effective only upon such recording.

21 (3) Unless the termination agreement sets forth the material terms of a contract or
22 proposed contract under which an estate or interest in each time-share unit equal to the sum of
23 the time-shares therein is to be sold and designates a trustee or board of trustees to effect the sale,
24 title to an estate or interest in each time-share unit equal to the sum of the time-shares therein
25 vests upon termination in the time-share owners thereof in proportion to the respective interests
26 of the time-share owners as provided in subsections (7) and (8), and liens on the time-shares
27 shall attach to and encumber said interests. Any co-owner of said estate or interest in a unit may
28 thereafter maintain an action for partition or for allotment or sale in lieu of partition.

29 (4) If the termination agreement sets forth parameters for the material terms of a contract
30 or proposed contract under which an estate or interest in each time-share unit equal to the sum of

31 the time-shares therein is to be sold and designates the board of the time-share owners
32 association as trustees, or other individual or group of individuals as trustees, to effect the sale,
33 title to said estate or interest vests upon termination in the said trustees for the benefit of the
34 time-share owners, to be transferred pursuant to the contract of sale. Net proceeds of the sale
35 shall be distributed to time-share owners and lienholders as their interests may appear, as
36 provided in subsections (7) and (8).

37 (5) If the time-share property is managed by an association that is separate from any
38 underlying owners' association, the termination of a time-share plan does not change the status
39 of the underlying owners' association. Upon termination of the time-share plan, the time-share
40 association shall continue to exist, but only for the purposes of concluding its affairs, prosecuting
41 and defending actions by or against it, collecting and discharging obligations, disposing of and
42 conveying its property, collecting and dividing its assets, and otherwise complying with this
43 section.

44 (6) All reasonable expenses incurred by the termination trustee(s) relating to the
45 performance of its or their duties pursuant to this subsection, including the reasonable fees of
46 attorneys and other professionals, must be paid by the termination trustee(s) .

47 (7) The termination trustee(s) shall adopt reasonable procedures to implement the sale of
48 the former time-share property and comply with the requirements of this section.

49 (8) Except as otherwise provided in the termination agreement, so long as the former
50 time-share owners or their termination trustee(s) hold title to an estate or interest equal to the
51 sum of the time-shares, each former time-share owner and his successors in interest have the
52 same rights with respect to occupancy in the former time-share unit that he would have had if

53 termination had not occurred, together with the same liabilities and other obligations imposed by
54 this chapter or the time-share instrument.

55 (9) After termination of all time-shares in a time-share property and adequate provision
56 for the payment of the claims of the creditors for time-share expenses, distribution of (i) the
57 proceeds of any sale pursuant to this section, (ii) the proceeds of any personalty held for the use
58 and benefit of the former time-share owners, and (iii) any other funds held for the use and benefit
59 of the former time-share owners, shall be made to the former time-share owners and their
60 successors in interest in proportion to their respective interests as provided in subsection (8).
61 Following termination, creditors of the association holding liens perfected against the time-share
62 property prior to the termination may enforce said liens in the same manner as any other lien
63 holder. All other creditors of the association shall be treated as if they had perfected liens on the
64 time-share property immediately prior to termination.

65 (10) The time-share instrument may specify the respective fractional or percentage
66 interest in the estate or interest in each unit or in the time-share property equal to the sum of the
67 time-shares therein that will be owned by each former time-share owner upon termination of the
68 time-shares. If the time-share instrument fails to so specify, then upon termination, each time-
69 share owner's beneficial interest in the termination trust shall be equal to such owner's prior
70 beneficial interest in the time-share property as set forth in the time-share instrument and any
71 underlying condominium Master Deed.

72 (c) A time-share plan which is scheduled to expire, by its express terms, at a certain date,
73 with the time-share owners each holding an undivided tenancy in common interest thereafter,
74 may be extended in accordance with the following:

75 (1) After the occurrence of a duly noticed and called meeting of the association convened
76 for the purpose of discussion of the proposed extension of the time-share plan, unless the time-
77 share instrument specifically provides a lower percentage, the written consent, of at least sixty
78 percent of all eligible beneficial interests of the association may, at any time, extend the term of
79 the time-share plan. If the term of a time-share plan is extended pursuant to this subsection, all
80 rights, privileges, duties, and obligations created under applicable law or the time-share
81 instrument continue in full force to the same extent as if the extended termination date of the
82 time-share plan were the original termination date of the time-share.

83 (d) In the event of a conflict between Section 15 and the time-share instrument, the
84 condominium master deed, if applicable, or other governing documents of the time-share, and
85 any amendment thereto, of any time-share submitted to the provisions of this chapter, the
86 provisions of Section 15 shall control.

87 (e) Any action for damages or any other legal challenge arising out of the termination or
88 extension of a time-share plan pursuant to Section 15 shall be commenced only within one year
89 after the recording in the registry of deeds or land registration office of the termination
90 agreement or the extension agreement, as the case may be.”

91 SECTION 2. This act shall apply to all time-share plans in the commonwealth existing
92 before and subsequent to passage of this act.