

2016 -- S 2760

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PROPERTY - RHODE ISLAND REAL ESTATE TIME-SHARE ACT -
TERMINATION OF TIME SHARES

Introduced By: Senators Pichardo, and Miller

Date Introduced: March 10, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-41-2.05 of the General Laws in Chapter 34-41 entitled "Rhode
2 Island Real Estate Time-Share Act" is hereby amended to read as follows:

3 **34-41-2.05. Termination of time shares.** -- (a) This section applies to all time share
4 estates except it shall apply to time-share licenses only to the extent expressly provided by the
5 time-share instrument.

6 (b) All time shares in a time-share property may be terminated ~~only by~~ as follows:

7 (1) By agreement of the time-share owners having at least eighty percent (80%) of the
8 time shares, or such larger majority as the time-share instrument may specify- ; or

9 (2) Any provision in the time-share declaration notwithstanding, by a plan of termination
10 approved by the lesser of the lowest percentage of voting interests necessary to amend the
11 declaration, or as otherwise provided in the declaration for approval of termination if:

12 (i) The estimated cost of construction for repairs which are necessary to restore the time-
13 share property to its former condition or bring the time-share property into compliance with
14 applicable laws or regulations exceeds the combined fair market value of the units in the time-
15 share property after completion of the construction or repairs;

16 (ii) It becomes impossible to operate or reconstruct a time-share property to its prior
17 physical configuration because of land use laws or regulations;

18 (iii) The association is not paying its debts as they become due;

- 1 (iv) The association's debts exceed its assets;
2 (v) More than twenty-five percent (25%) of the association members are delinquent in
3 payment of the annual maintenance fee and/or any special assessments;
4 (vi) Uncollectible debt equals or exceeds twenty-five percent (25%) of the current annual
5 maintenance fee; or
6 (vii) The reasonable cost of capital improvements required to maintain the development
7 in safe and habitable condition and in compliance with all applicable codes, including, but not
8 limited to, building, electrical, and fire codes, exceeds twenty-five percent (25%) of the annual
9 maintenance fee and special assessment revenue collected.

10 (c) An agreement to terminate all time shares in a time-share property must be evidenced
11 by the execution of a termination agreement, or ratifications thereof, in the same manner as a
12 deed, by the requisite number of time-share owners. The termination agreement must specify a
13 date after which the agreement will be void unless it is recorded before that date. A termination
14 agreement and a certification by the managing entity of the ratification thereof must be recorded
15 in every municipal office of land evidence records in which a portion of the time-share property is
16 situated, and is effective only upon recordation.

17 (d) Unless the termination agreement sets forth the material terms of a contract or
18 proposed contract under which an estate or interest in each time-share unit equal to the sum of the
19 time shares therein is to be sold and designates a trustee to effect the sale, title to an estate or
20 interest in each time-share unit equal to the sum of the time shares therein vests upon termination
21 in the time-share owners thereof in proportion to their respective interests as provided in
22 subsection (h), and liens on the time shares shift accordingly to encumber those interests. Any co-
23 owner of that estate or interest in a unit may thereafter maintain an action for partition or for
24 allotment or sale in lieu of partition pursuant to the laws of this state.

25 (e) If the termination agreement sets forth the material terms of a contract or proposed
26 contract under which an estate or interest in each time-share unit equal to the sum of the time
27 shares therein is to be sold and designates a trustee to effect the sale, title to that estate or interest
28 vests upon termination in the trustee for the benefit of the time-share owners, to be transferred
29 pursuant to the contract. Proceeds of the sale must be distributed to time-share owners and
30 lienholders as their interests may appear, in proportion to the respective interests of the time-share
31 owners as provided in subsection (h).

32 (f) Except as otherwise specified in the termination agreement, so long as the former
33 time-share owners or their trustee hold title to the estate or interest equal to the sum of the time
34 shares, each former time-share owner and his or her successors in interest have the same rights

1 with respect to occupancy in the former time-share unit that he or she would have had if
2 termination had not occurred, together with the same liabilities and other obligations imposed by
3 this chapter or the time-share instrument.

4 (g) After termination of all time shares in a time-share property and adequate provision
5 for the payment of the claims of the creditors for time-share expenses, distribution must be made,
6 in proportion to their respective interests as provided in subsection (h), to the former time-share
7 owners and their successors in interest of (i) the proceeds of any sale pursuant to this section, (ii)
8 the proceeds of any personalty held for the use and benefit of the former time-share owners, and
9 (iii) any other funds held for the use and benefit of the former time-share owners. Following
10 termination, creditors of the association holding liens perfected against the time-share property
11 before the termination may enforce those liens in the same manner as any other lienholder. All
12 other creditors of the association are to be treated as if they had perfected liens on the time-share
13 property immediately before termination.

14 (h) The time-share instrument may specify the respective fractional or percentage
15 interest in the estate or interest in each unit equal to the sum of the time shares therein that will be
16 owned by each former time-share owner. Otherwise, not more than one hundred eighty (180)
17 days prior to the termination, an appraisal must be made of the fair market value of each time
18 share by one or more impartial qualified appraisers selected either by the trustee designated in the
19 termination agreement, or by the managing entity if no trustee was so designated. The appraisal
20 must also state the corresponding fractional or percentage interests calculated in proportion to
21 those values and in accordance with this subsection. A notice stating all of those values and
22 corresponding interests and the return address of the sender must be sent by certified or registered
23 mail, return receipt requested, by the managing entity or by the trustee designated in the
24 termination agreements, to all of the time-share owners. The appraisal governs the magnitude of
25 each interest unless (i) at least twenty-five percent (25%) of the time-share owners deliver, within
26 sixty (60) days after the date the notices were mailed, written disapprovals to the return address of
27 the sender of the notice, or (ii) the final judgment of a court of competent jurisdiction, entered
28 during or after that period, holds that the appraisal should be set aside. The appraisal and the
29 calculation of interests must be made in accordance with the following:

30 (1) If the termination agreement sets forth the material terms of a contract or proposed
31 contract for the sale of the estate or interest equal to the sum of the time shares, each time share
32 conferring a right of occupancy during a limited number of time periods must be appraised as if
33 the time until the date specified for the conveyance of the property had already elapsed.
34 Otherwise, each time share of that kind must be appraised as if the time until the date specified

1 pursuant to subsection (c) had already elapsed.

2 (2) The interest of each time-share owner is the value of the time share he or she owned
3 divided by the sum of the values of all time shares in the unit or units to which his or her time
4 share applies.

5 (i) Foreclosure or enforcement of a lien or encumbrance against all of the time shares in
6 a time-share property does not of itself terminate those time shares.

7 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PROPERTY - RHODE ISLAND REAL ESTATE TIME-SHARE ACT -
TERMINATION OF TIME SHARES

1 This act would amend the Rhode Island Real Estate Time-Share Act to provide for
2 dissolution of the time-share form of ownership by fewer than eighty percent (80%) of the owners
3 in certain circumstances.

4 This act would take effect upon passage.

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