

2018 -- H 7970

LC005217

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO PROPERTY -- RHODE ISLAND REAL ESTATE TIME-SHARE ACT

Introduced By: Representatives Tobon, Cunha, Edwards, Maldonado, and Marshall

Date Introduced: March 16, 2018

Referred To: House Corporations

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.**

4 (a) This section applies to all time-share estates, except it shall apply to time-share
5 licenses only to the extent expressly provided by the time-share instrument.

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

7 (1) By agreement of the time-share owners having at least sixty percent (60%) 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 instrument notwithstanding, by a plan of termination
10 approved by the lesser of the lowest percentage of voting interests necessary to amend the
11 instrument, or as otherwise provided in the instrument 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;

19 (iv) The association's debts exceed its assets;

1 (v) More than twenty-five percent (25%) of the association members are delinquent in
2 payment of the annual maintenance fee and/or any special assessments;

3 (c) An agreement to terminate all time-shares pursuant to subsection (b)(1) shall comply
4 with the following:

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

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

20 (3) If the termination agreement sets forth the material terms of a contract or proposed
21 contract under which an estate or interest in each time-share unit equal to the sum of the time-
22 shares therein is to be sold and designates a trustee to effect the sale, title to that estate or interest
23 vests upon termination in the trustee for the benefit of the time-share owners with the fractional
24 interests in the time-shared real estate, to be transferred pursuant to the contract in fee simple and
25 free and clear of all liens and encumbrances. Proceeds of the sale must be distributed to time-
26 share owners and lienholders as their interests may appear, in proportion to the respective
27 interests of the time-share owners as provided in subsection (e).

28 (4) Except as otherwise specified in the termination agreement, so long as the former
29 time-share owners or their trustee hold title to the estate or interest equal to the sum of the time-
30 shares, each former time-share owner and his or her successors in interest have the same rights
31 with respect to occupancy in the former time-share unit that he or she would have had if
32 termination had not occurred, together with the same liabilities and other obligations imposed by
33 this chapter or the time-share instrument.

34 (d) After termination of all time-shares in a time-share property and adequate provision

1 for the payment of any liens or encumbrances on the property of the association and for the
2 claims of the creditors for time-share expenses, distribution must be made, in proportion to their
3 respective interests as provided in subsection (e), to the former time-share owners and the
4 mortgagees and lien holders having an interest in their respective time-share units as their
5 interests may appear and their successors in interest of (i) the proceeds of any sale pursuant to this
6 section, (ii) the proceeds of any personalty held for the use and benefit of the former time-share
7 owners, and (iii) any other funds held for the use and benefit of the former time-share owners.
8 Following termination, creditors of the association holding liens perfected against the time-share
9 property before the termination may enforce those liens against the proceeds from the sale of the
10 property in the same manner as any other lienholder. All other creditors of the association are to
11 be treated as if they had perfected liens on the time-share property immediately before
12 termination.

13 (e) The ~~time-share~~ termination instrument may specify the respective fractional or
14 percentage interest in the estate or interest or in the proceeds from the sale of each unit equal to
15 the sum of the time-shares therein that will be owned by each former time-share owner. If
16 specified in the termination instrument, such percentage interests shall be based upon by an
17 appraisal of the fair-market value of each time-share by one or more impartial qualified
18 appraisers. Otherwise, not more than one hundred eighty (180) days prior to the termination, an
19 appraisal must be made of the fair-market value of each time-share by one or more impartial
20 qualified appraisers selected either by the trustee designated in the termination agreement, or by
21 the managing entity if no trustee was so designated. The appraisal must also state the
22 corresponding fractional or percentage interests calculated in proportion to those values and in
23 accordance with this subsection. A notice stating all of those values and corresponding interests
24 and the return address of the sender must be sent by certified or registered mail, return receipt
25 requested, by the managing entity or by the trustee designated in the termination agreements, to
26 all of the time-share owners at their last known address as shown on the records of the
27 association. The appraisal governs the magnitude of each interest and shall be presented to the
28 superior court sitting in the county in which the time-share property is located for review and
29 approve prior to the sale of the property and distribution of the proceeds of such sale pursuant to
30 the termination plan unless (i) At least twenty-five percent (25%) of the time-share owners
31 deliver, within sixty (60) days after the date the notices were mailed, written disapprovals to the
32 return address of the sender of the notice, or (ii) The final judgment of a court of competent
33 jurisdiction, entered during or after that period, holds that the appraisal should be set aside. The
34 appraisal and the calculation of interests must be made in accordance with the following:

1 (1) If the termination agreement sets forth the material terms of a contract, or proposed
2 contract, for the sale of the estate or interest equal to the sum of the time-shares, each time-share
3 conferring a right of occupancy during a limited number of time periods must be appraised as if
4 the time until the date specified for the conveyance of the property had already elapsed.
5 Otherwise, each time-share of that kind must be appraised as if the time until the date specified
6 pursuant to subsection (c) had already elapsed.

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

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

12 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

1 This act would amend several processes relative to the termination of a time-share
2 agreement and the division of the ownership interests thereto.

3 This act would take effect upon passage.

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