

2018 -- H 7970 SUBSTITUTE A

=====
LC005217/SUB A
=====

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, in fee simple and
24 free and clear of all liens and encumbrances, to be transferred pursuant to the contract. Proceeds
25 of the sale must be distributed to time-share owners with the fractional interests in the time-shares
26 and lienholders as their interests may appear, in proportion to the respective interests of the time-
27 share owners as provided in subsection (e). After the title so vests in the trustee, the time-share
28 owners shall have no further real property ownership interest or other right in and to their former
29 unit, and their interest and rights shall be limited to only the proceeds remaining with the trustee
30 or the registry of the court except as may be provided in subsection (c)(4) of this section.

31 (4) Except as otherwise specified in the termination agreement, so long as the former
32 time-share owners or their trustee hold title to the estate or interest equal to the sum of the time-
33 shares, each former time-share owner and his or her successors in interest have the same rights
34 with respect to occupancy in the former time-share unit that he or she would have had if

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

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

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

1 judgment of a court of competent jurisdiction, entered during or after that period, holds that the
2 appraisal should be set aside. The appraisal and the calculation of interests must be made in
3 accordance with the following:

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

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

13 (f) Foreclosure or enforcement of a lien or encumbrance against all of the time-shares in a
14 time-share property does not of itself terminate those time-shares. Provided, however, a
15 foreclosure sale of a time-share association lien conducted in accordance with the Rhode Island
16 general laws shall be deemed to vest title in the grantee/transferee at that sale upon the recording
17 of the foreclosure deed, without further action if no adverse litigation contesting that foreclosure
18 has been commenced within one year after recording of that foreclosure deed or the effective date
19 of this statute, whichever is later, and if there is no cause of action commenced based solely on
20 the consideration for that purchase pending within one year of the recording of that foreclosure
21 deed or the effective date of this statute, whichever is later.

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

=====
LC005217/SUB A
=====

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.

=====
LC005217/SUB A
=====