

By: Villalba

H.B. No. 1588

Substitute the following for H.B. No. 1588:

By: Simmons

C.S.H.B. No. 1588

A BILL TO BE ENTITLED

AN ACT

relating to the validity of certain timeshare interests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Property Code, is amended by adding Chapter 30 to read as follows:

CHAPTER 30. ACTION TO DETERMINE VALIDITY OF CERTAIN TIMESHARE INTERESTS

Sec. 30.001. APPLICABILITY OF CHAPTER. This chapter applies only to a condominium unit that is:

(1) located on a barrier island that borders the Gulf of Mexico;

(2) subject to a declaration creating:

(A) a condominium regime to which Chapter 81 applies; and

(B) a timeshare plan applicable to all or part of the condominium property; and

(3) located in a development in which the timeshare association has not paid any fees, dues, assessments, or other charges due to the condominium council of owners for a period of at least three years immediately preceding the filing of an action under this chapter.

Sec. 30.002. ACTION AUTHORIZED. If a deed or other instrument has been recorded in the real property records asserting or purporting to convey a timeshare interest in a condominium unit

1 to which this chapter applies, the condominium unit owner may bring
2 an action under this chapter in a district court in the county in
3 which the condominium unit is located seeking a determination that
4 the timeshare interest is:

5 (1) invalid; or

6 (2) void under Section 30.004 or any other law.

7 Sec. 30.003. SERVICE BY PUBLICATION AUTHORIZED. (a) If the
8 whereabouts or identity of the person asserting the timeshare
9 interest or to whom the timeshare interest is purported to have been
10 conveyed is unknown to the person bringing an action under this
11 chapter, citation in the action may be served by publication in a
12 newspaper in the county in which the condominium unit is located.
13 Service by publication in the action is governed by the Texas Rules
14 of Civil Procedure except to the extent of any conflict with this
15 section.

16 (b) The published citation must contain:

17 (1) the physical address of the condominium unit;

18 (2) the county in which the condominium unit is
19 located;

20 (3) the name of the person asserting the timeshare
21 interest in the condominium unit or to whom the timeshare interest
22 is purported to have been conveyed, as shown in the recorded
23 instrument;

24 (4) a description of the timeshare interest asserted
25 in or purported to be conveyed by the recorded instrument;

26 (5) the name and address of the person bringing the
27 action; and

1 (6) a statement that the person bringing the action is
2 seeking a determination that the timeshare interest is invalid or
3 void.

4 Sec. 30.004. INTEREST VOID. (a) A timeshare interest in a
5 condominium unit described by Section 30.001 is void if the person
6 bringing an action establishes that:

7 (1) the person bringing the action holds record title
8 to the condominium unit;

9 (2) on the date the instrument asserting the timeshare
10 interest or purporting to convey the timeshare interest was filed
11 for recording:

12 (A) the person bringing the action held record
13 title to the condominium unit; or

14 (B) record title to the condominium unit was held
15 by a person other than the declarant who precedes the person
16 bringing the action in the chain of title to the unit;

17 (3) the timeshare interest was not conveyed by the
18 person bringing the action or any other person who follows the
19 declarant in the chain of title to the unit;

20 (4) the person asserting the timeshare interest or to
21 whom the timeshare interest is purported to have been conveyed has
22 not paid any required assessments in connection with the timeshare
23 interest for a period of at least three years immediately preceding
24 the filing of the action; and

25 (5) at no time on or after the date the instrument was
26 filed for recording has a person made an attempt to exercise the
27 right to occupy the unit under the timeshare interest.

1 (b) This section does not preclude a determination that a
2 timeshare interest is invalid or void under any other law.

3 Sec. 30.005. DEFAULT JUDGMENT. In an action brought under
4 this chapter, the court may enter a default judgment declaring that
5 a timeshare interest is invalid or void if the person asserting the
6 timeshare interest or to whom the timeshare interest was purported
7 to have been conveyed:

8 (1) was personally served with citation or was cited
9 by publication in accordance with Section 30.003; and

10 (2) fails to timely appear and answer.

11 Sec. 30.006. FINALITY OF JUDGMENT. Notwithstanding Rule
12 329, Texas Rules of Civil Procedure, or any other law, and
13 regardless of the manner of citation or whether the judgment is a
14 default judgment or a judgment on the merits:

15 (1) a motion for a new trial in an action under this
16 chapter must be filed on or before the 30th day after the date the
17 judgment is signed; and

18 (2) the judgment is final and unappealable on the 31st
19 day after the date the judgment is signed.

20 SECTION 2. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.