

AN ACT

relating to the transfer or termination of certain timeshare interests.

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

SECTION 1. Section 221.003(b), Property Code, is amended to read as follows:

(b) Timeshare properties located outside this state are subject only to Subchapters C through H and J.

SECTION 2. Chapter 221, Property Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. SERVICE AGREEMENTS TO TRANSFER OR TERMINATE A
TIMESHARE INTEREST

Sec. 221.101. TRANSFER OR TERMINATION OF TIMESHARE INTEREST. In this subchapter:

(1) "Termination" with respect to a timeshare interest:

(A) means:

(i) the release of contractual obligations relating to a timeshare interest by the developer, association, or managing entity; or

(ii) the invalidation, cancellation, nullification, or cessation of contractual obligations related to a timeshare interest by a judgment or court order; and

(B) does not include the cancellation of a

1 purchase contract governed by Subchapter E.

2 (2) "Transfer" with respect to a timeshare interest
3 means the conveyance of all or substantially all of a timeshare
4 interest.

5 Sec. 221.102. APPLICABILITY. (a) This subchapter applies
6 to a timeshare interest if the timeshare interest has been acquired
7 only for the purchaser's personal, family, or household use and:

8 (1) the timeshare interest is owned by a resident of
9 this state;

10 (2) the timeshare property is located in this state;
11 or

12 (3) the timeshare interest acquired is in a multisite
13 timeshare plan required to be registered under Subchapter C.

14 (b) Except as provided by Subsection (c), this subchapter
15 applies to a person who:

16 (1) is acting in the ordinary course of business; and

17 (2) directly or indirectly, regardless of whether
18 acting in person, by mail, by telephone, or by any mode of Internet
19 or electronic communication, offers or advertises an offer to
20 engage in, for consideration, the following activities:

21 (A) obtaining or attempting to obtain on behalf
22 of a timeshare interest owner a termination of contractual
23 obligations relating to a timeshare interest;

24 (B) selling, renting, listing, or advertising a
25 timeshare interest on behalf of a timeshare interest owner;

26 (C) purchasing a timeshare interest from a
27 timeshare interest owner; or

1 (D) assisting in the transfer of an owner's
2 timeshare interest.

3 (c) This subchapter does not apply to:

4 (1) a license holder under Chapter 1101, Occupations
5 Code, acting as a broker, agent, or salesperson under that person's
6 license in connection with the transfer or termination of a
7 timeshare interest;

8 (2) a developer, association, or managing entity for a
9 timeshare interest to be transferred or terminated or a third party
10 acting at the specific request of the developer, association, or
11 managing entity; or

12 (3) an attorney, title agent, title company, or escrow
13 company that:

14 (A) provides only closing, settlement, or other
15 comparable transaction services in connection with the transfer or
16 termination of a timeshare interest; and

17 (B) does not otherwise engage in activities
18 described by Subsection (b).

19 Sec. 221.103. GENERAL DISCLOSURES REQUIRED. A person
20 subject to this subchapter who enters into an agreement with a
21 timeshare interest owner to facilitate the transfer or termination
22 of a timeshare interest shall provide to the timeshare interest
23 owner, before the third day before the date the timeshare interest
24 owner enters into the agreement the following written disclosures,
25 as applicable:

26 (1) the name, telephone number, and physical address
27 of the person providing services under the agreement and any

1 affiliate, agent, or third-party representative of that person;

2 (2) if the person identified in Subdivision (1), or an
3 affiliate, agent, or third-party representative of that person
4 providing services under the agreement, is an attorney licensed to
5 practice law in this state, a disclosure of whether the attorney
6 will be providing services under the agreement and representing the
7 timeshare interest owner in connection with the transfer or
8 termination of the timeshare interest;

9 (3) a description, legally sufficient for
10 identification, of the timeshare interest to be transferred or
11 terminated;

12 (4) a description of the method of transfer or
13 termination or a copy of the instrument that will be used for
14 transferring or terminating the timeshare interest;

15 (5) a description of any interest the timeshare
16 interest owner retains after the transfer;

17 (6) a description of the scope of a power of attorney
18 or other delegation of authority, if any, that the timeshare
19 interest owner is required to give to complete the transfer of the
20 timeshare interest;

21 (7) an itemized statement of any amounts the timeshare
22 owner is required to pay as consideration or reimbursement for
23 services provided in connection with the agreement;

24 (8) the name of each recipient of amounts described by
25 Subdivision (7);

26 (9) the estimated date for completing all services
27 sufficient to transfer or terminate the timeshare interest; and

1 (10) a statement that, on completion of the transfer
2 or termination of the timeshare interest, the person will give
3 written notice of the transfer or termination to:

4 (A) the developer, association, or managing
5 entity, as applicable; and

6 (B) if applicable, the exchange company for the
7 timeshare interest.

8 Sec. 221.104. DISCLOSURE OF AUTHORIZED USE OF TIMESHARE
9 INTEREST. (a) A person subject to this subchapter who enters into
10 an agreement with a timeshare interest owner to facilitate the
11 transfer or termination of a timeshare interest shall disclose in
12 writing to the timeshare interest owner the name of any person,
13 other than the timeshare interest owner, who may occupy, rent,
14 exchange, or otherwise use the timeshare interest during the term
15 of the agreement.

16 (b) If a person is authorized to occupy, rent, exchange, or
17 otherwise use the timeshare interest during the term of the
18 agreement, the agreement must state the name of each person
19 receiving consideration for the occupation, rent, exchange, or use
20 of the timeshare interest.

21 Sec. 221.105. DISCLOSURES RELATING TO PAYMENT OF FEES FOR
22 TRANSFER SERVICES. A person subject to this subchapter who enters
23 into an agreement with a timeshare interest owner to facilitate the
24 transfer of the timeshare interest must conspicuously disclose in
25 writing to the timeshare interest owner that the timeshare interest
26 owner is not required to pay any consideration or reimbursement
27 under the agreement until the timeshare interest owner receives:

1 (1) a written acknowledgement from the developer, the
2 association, or the managing entity that the person facilitating
3 the transfer under the agreement complied with all applicable
4 policies of the developer, association, or managing entity, if any,
5 governing the transfer of the timeshare interest; and

6 (2) a copy of the instrument transferring the
7 timeshare interest, recorded, if required by applicable law, in the
8 real property records of the county in which the timeshare property
9 is located.

10 Sec. 221.106. REQUIRED NOTICE FOR TRANSFER SERVICES. A
11 person subject to this subchapter who enters into an agreement with
12 a timeshare interest owner to facilitate the transfer of the
13 timeshare interest must provide to the timeshare interest owner a
14 statement printed in 14-point boldface type or 14-point uppercase
15 typewritten letters that reads substantially similar to the
16 following:

17 I (name of the person facilitating the transfer) WILL ACT IN
18 GOOD FAITH AND IN A COMMERCIALY REASONABLE MANNER TO COMPLETE THE
19 TRANSFER OF OWNERSHIP OF YOUR TIMESHARE INTEREST NOT LATER THAN THE
20 180TH DAY AFTER THE DATE OF THIS AGREEMENT.

21 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH
22 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
23 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
24 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

25 IF THE TRANSFER OF YOUR TIMESHARE INTEREST IS NOT COMPLETED
26 BEFORE THE 180TH DAY AFTER THE DATE OF THIS AGREEMENT, YOU WILL
27 CONTINUE TO BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES

1 ASSOCIATED WITH YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR
2 SPECIAL ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

3 Sec. 221.107. REQUIRED NOTICE FOR TERMINATION SERVICES. A
4 person subject to this subchapter who enters into an agreement with
5 a timeshare interest owner to facilitate the termination of the
6 timeshare interest must provide to the timeshare interest owner a
7 statement printed in 14-point boldface type or 14-point uppercase
8 typewritten letters that reads substantially similar to the
9 following:

10 I (name of the person facilitating the termination of the
11 timeshare interest) WILL ACT IN GOOD FAITH AND IN A COMMERCIALY
12 REASONABLE MANNER TO COMPLETE THE TERMINATION OF YOUR TIMESHARE
13 INTEREST NOT LATER THAN THE 180TH DAY AFTER THE DATE OF THIS
14 AGREEMENT BY OBTAINING:

15 (1) A VALID AND ENFORCEABLE RELEASE FROM THE
16 DEVELOPER, ASSOCIATION, OR MANAGING ENTITY; OR

17 (2) A JUDGMENT OR COURT ORDER INVALIDATING THE
18 PURCHASE OR OWNERSHIP OF YOUR TIMESHARE INTEREST.

19 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH
20 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
21 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
22 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

23 I CANNOT GUARANTEE THAT I WILL SUCCESSFULLY COMPLETE THE
24 TERMINATION OF YOUR TIMESHARE INTEREST. IF I FAIL TO COMPLETE THE
25 TERMINATION OF YOUR TIMESHARE INTEREST, YOU WILL CONTINUE TO BE
26 RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES ASSOCIATED WITH
27 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL

1 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

2 Sec. 221.108. RELIANCE. In making disclosures required by
3 this subchapter, a person facilitating the transfer or termination
4 of a timeshare interest may rely on written information provided by
5 the timeshare interest owner, the developer, the association, or
6 the managing entity.

7 Sec. 221.109. DUTY OF GOOD FAITH REGARDING TRANSFER OR
8 TERMINATION SERVICES. A person facilitating the transfer or
9 termination of a timeshare interest must act in good faith to
10 accomplish the transfer or termination not later than the 180th day
11 after the date the person enters into an agreement with the
12 timeshare interest owner.

13 Sec. 221.110. DECEPTIVE TRADE PRACTICES. A person subject
14 to this subchapter commits a false, misleading, or deceptive act or
15 practice within the meaning of Sections 17.46(a) and (b), Business
16 & Commerce Code, by engaging in any of the following acts:

17 (1) failing to disclose information as required by
18 this subchapter;

19 (2) making false or misleading statements concerning:
20 (A) the existence of an offer related to the
21 purchase or rent of a timeshare interest;

22 (B) the likelihood of the completion or the time
23 necessary to complete any sale, rental, transfer, or termination of
24 a timeshare interest;

25 (C) the value of a timeshare interest;

26 (D) the current or future costs, including
27 assessments, maintenance fees, or taxes, of owning a timeshare

1 interest;

2 (E) the method by which or source from which a
3 timeshare interest owner's name, address, telephone number, or
4 other contact information was obtained;

5 (F) the identity of the person providing services
6 to facilitate the transfer or termination of a timeshare interest
7 or any affiliate, agent, or third-party representative of that
8 person;

9 (G) the terms and conditions under which services
10 to facilitate a transfer or termination of a timeshare interest are
11 offered;

12 (H) the willingness of a developer, association,
13 or managing entity to:

14 (i) agree to the transfer or termination of
15 a timeshare interest; or

16 (ii) execute instruments necessary to
17 transfer or terminate the timeshare interest; or

18 (I) the manner in which consideration or
19 reimbursements paid by a timeshare interest owner will be used or
20 applied;

21 (3) encouraging or inducing a timeshare interest owner
22 to stop paying the developer, the association, or the managing
23 entity in violation of a contract with or any other legally
24 enforceable obligation to the developer, the association, or the
25 managing entity before the completion of a transfer or termination;
26 or

27 (4) receiving or collecting consideration for or

1 reimbursement related to the facilitation of the transfer of a
2 timeshare interest before the timeshare interest owner receives the
3 documents described by Sections 221.105(1) and (2).

4 Sec. 221.111. SUPERVISORY DUTIES. (a) The person who
5 enters into an agreement to facilitate the transfer or termination
6 of a timeshare interest shall supervise, manage, and control all
7 aspects of the services provided under the agreement.

8 (b) Any violation of this subchapter that occurs during the
9 provision of services is considered a violation by the person who
10 enters into the agreement and any affiliate, agent, or third-party
11 representative of that person.

12 (c) Section 221.035 does not apply to a person providing
13 services under this subchapter.

14 SECTION 3. (a) The disclosure and notice requirements
15 provided by Subchapter J, Chapter 221, Property Code, as added by
16 this Act, apply only to an agreement to facilitate the transfer or
17 termination of a timeshare interest entered into on or after the
18 effective date of this Act. An agreement to facilitate the transfer
19 or termination of a timeshare interest entered into before the
20 effective date of this Act is governed by the law as it existed
21 immediately before the effective date of this Act, and that law is
22 continued in effect for that purpose.

23 (b) Section 221.110, Property Code, as added by this Act,
24 applies only to conduct that occurs on or after the effective date
25 of this Act. Conduct that occurs before the effective date of this
26 Act is governed by the law as it existed when the conduct occurred,
27 and the former law is continued in effect for that purpose.

1 SECTION 4. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 2261 was passed by the House on April 30, 2015, by the following vote: Yeas 134, Nays 5, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2261 on May 21, 2015, by the following vote: Yeas 141, Nays 1, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2261 was passed by the Senate, with amendments, on May 20, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor