

1-1 By: Villalba, King of Parker H.B. No. 2261
 1-2 (Senate Sponsor - Hinojosa)
 1-3 (In the Senate - Received from the House May 4, 2015;
 1-4 May 6, 2015, read first time and referred to Committee on Business
 1-5 and Commerce; May 14, 2015, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-7 May 14, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2261 By: Creighton

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the transfer or termination of certain timeshare
 1-23 interests.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 221.003(b), Property Code, is amended to
 1-26 read as follows:

1-27 (b) Timeshare properties located outside this state are
 1-28 subject only to Subchapters C through H and J.

1-29 SECTION 2. Chapter 221, Property Code, is amended by adding
 1-30 Subchapter J to read as follows:

1-31 SUBCHAPTER J. SERVICE AGREEMENTS TO TRANSFER OR TERMINATE A
 1-32 TIMESHARE INTEREST

1-33 Sec. 221.101. TRANSFER OR TERMINATION OF TIMESHARE
 1-34 INTEREST. In this subchapter:

1-35 (1) "Termination" with respect to a timeshare
 1-36 interest:

1-37 (A) means:

1-38 (i) the release of contractual obligations
 1-39 relating to a timeshare interest by the developer, association, or
 1-40 managing entity; or

1-41 (ii) the invalidation, cancellation,
 1-42 nullification, or cessation of contractual obligations related to a
 1-43 timeshare interest by a judgment or court order; and

1-44 (B) does not include the cancellation of a
 1-45 purchase contract governed by Subchapter E.

1-46 (2) "Transfer" with respect to a timeshare interest
 1-47 means the conveyance of all or substantially all of a timeshare
 1-48 interest.

1-49 Sec. 221.102. APPLICABILITY. (a) This subchapter applies
 1-50 to a timeshare interest if the timeshare interest has been acquired
 1-51 only for the purchaser's personal, family, or household use and:

1-52 (1) the timeshare interest is owned by a resident of
 1-53 this state;

1-54 (2) the timeshare property is located in this state;
 1-55 or

1-56 (3) the timeshare interest acquired is in a multisite
 1-57 timeshare plan required to be registered under Subchapter C.

1-58 (b) Except as provided by Subsection (c), this subchapter
 1-59 applies to a person who:

1-60 (1) is acting in the ordinary course of business; and

2-1 (2) directly or indirectly, regardless of whether
2-2 acting in person, by mail, by telephone, or by any mode of Internet
2-3 or electronic communication, offers or advertises an offer to
2-4 engage in, for consideration, the following activities:

2-5 (A) obtaining or attempting to obtain on behalf
2-6 of a timeshare interest owner a termination of contractual
2-7 obligations relating to a timeshare interest;

2-8 (B) selling, renting, listing, or advertising a
2-9 timeshare interest on behalf of a timeshare interest owner;

2-10 (C) purchasing a timeshare interest from a
2-11 timeshare interest owner; or

2-12 (D) assisting in the transfer of an owner's
2-13 timeshare interest.

2-14 (c) This subchapter does not apply to:

2-15 (1) a license holder under Chapter 1101, Occupations
2-16 Code, acting as a broker, agent, or salesperson under that person's
2-17 license in connection with the transfer or termination of a
2-18 timeshare interest;

2-19 (2) a developer, association, or managing entity for a
2-20 timeshare interest to be transferred or terminated or a third party
2-21 acting at the specific request of the developer, association, or
2-22 managing entity; or

2-23 (3) an attorney, title agent, title company, or escrow
2-24 company that:

2-25 (A) provides only closing, settlement, or other
2-26 comparable transaction services in connection with the transfer or
2-27 termination of a timeshare interest; and

2-28 (B) does not otherwise engage in activities
2-29 described by Subsection (b).

2-30 Sec. 221.103. GENERAL DISCLOSURES REQUIRED. A person
2-31 subject to this subchapter who enters into an agreement with a
2-32 timeshare interest owner to facilitate the transfer or termination
2-33 of a timeshare interest shall provide to the timeshare interest
2-34 owner, before the third day before the date the timeshare interest
2-35 owner enters into the agreement the following written disclosures,
2-36 as applicable:

2-37 (1) the name, telephone number, and physical address
2-38 of the person providing services under the agreement and any
2-39 affiliate, agent, or third-party representative of that person;

2-40 (2) if the person identified in Subdivision (1), or an
2-41 affiliate, agent, or third-party representative of that person
2-42 providing services under the agreement, is an attorney licensed to
2-43 practice law in this state, a disclosure of whether the attorney
2-44 will be providing services under the agreement and representing the
2-45 timeshare interest owner in connection with the transfer or
2-46 termination of the timeshare interest;

2-47 (3) a description, legally sufficient for
2-48 identification, of the timeshare interest to be transferred or
2-49 terminated;

2-50 (4) a description of the method of transfer or
2-51 termination or a copy of the instrument that will be used for
2-52 transferring or terminating the timeshare interest;

2-53 (5) a description of any interest the timeshare
2-54 interest owner retains after the transfer;

2-55 (6) a description of the scope of a power of attorney
2-56 or other delegation of authority, if any, that the timeshare
2-57 interest owner is required to give to complete the transfer of the
2-58 timeshare interest;

2-59 (7) an itemized statement of any amounts the timeshare
2-60 owner is required to pay as consideration or reimbursement for
2-61 services provided in connection with the agreement;

2-62 (8) the name of each recipient of amounts described by
2-63 Subdivision (7);

2-64 (9) the estimated date for completing all services
2-65 sufficient to transfer or terminate the timeshare interest; and

2-66 (10) a statement that, on completion of the transfer
2-67 or termination of the timeshare interest, the person will give
2-68 written notice of the transfer or termination to:

2-69 (A) the developer, association, or managing

3-1 entity, as applicable; and
3-2 (B) if applicable, the exchange company for the
3-3 timeshare interest.

3-4 Sec. 221.104. DISCLOSURE OF AUTHORIZED USE OF TIMESHARE
3-5 INTEREST. (a) A person subject to this subchapter who enters into
3-6 an agreement with a timeshare interest owner to facilitate the
3-7 transfer or termination of a timeshare interest shall disclose in
3-8 writing to the timeshare interest owner the name of any person,
3-9 other than the timeshare interest owner, who may occupy, rent,
3-10 exchange, or otherwise use the timeshare interest during the term
3-11 of the agreement.

3-12 (b) If a person is authorized to occupy, rent, exchange, or
3-13 otherwise use the timeshare interest during the term of the
3-14 agreement, the agreement must state the name of each person
3-15 receiving consideration for the occupation, rent, exchange, or use
3-16 of the timeshare interest.

3-17 Sec. 221.105. DISCLOSURES RELATING TO PAYMENT OF FEES FOR
3-18 TRANSFER SERVICES. A person subject to this subchapter who enters
3-19 into an agreement with a timeshare interest owner to facilitate the
3-20 transfer of the timeshare interest must conspicuously disclose in
3-21 writing to the timeshare interest owner that the timeshare interest
3-22 owner is not required to pay any consideration or reimbursement
3-23 under the agreement until the timeshare interest owner receives:

3-24 (1) a written acknowledgement from the developer, the
3-25 association, or the managing entity that the person facilitating
3-26 the transfer under the agreement complied with all applicable
3-27 policies of the developer, association, or managing entity, if any,
3-28 governing the transfer of the timeshare interest; and

3-29 (2) a copy of the instrument transferring the
3-30 timeshare interest, recorded, if required by applicable law, in the
3-31 real property records of the county in which the timeshare property
3-32 is located.

3-33 Sec. 221.106. REQUIRED NOTICE FOR TRANSFER SERVICES. A
3-34 person subject to this subchapter who enters into an agreement with
3-35 a timeshare interest owner to facilitate the transfer of the
3-36 timeshare interest must provide to the timeshare interest owner a
3-37 statement printed in 14-point boldface type or 14-point uppercase
3-38 typewritten letters that reads substantially similar to the
3-39 following:

3-40 I (name of the person facilitating the transfer) WILL ACT IN
3-41 GOOD FAITH AND IN A COMMERCIALY REASONABLE MANNER TO COMPLETE THE
3-42 TRANSFER OF OWNERSHIP OF YOUR TIMESHARE INTEREST NOT LATER THAN THE
3-43 180TH DAY AFTER THE DATE OF THIS AGREEMENT.

3-44 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH
3-45 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
3-46 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
3-47 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

3-48 IF THE TRANSFER OF YOUR TIMESHARE INTEREST IS NOT COMPLETED
3-49 BEFORE THE 180TH DAY AFTER THE DATE OF THIS AGREEMENT, YOU WILL
3-50 CONTINUE TO BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES
3-51 ASSOCIATED WITH YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR
3-52 SPECIAL ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

3-53 Sec. 221.107. REQUIRED NOTICE FOR TERMINATION SERVICES. A
3-54 person subject to this subchapter who enters into an agreement with
3-55 a timeshare interest owner to facilitate the termination of the
3-56 timeshare interest must provide to the timeshare interest owner a
3-57 statement printed in 14-point boldface type or 14-point uppercase
3-58 typewritten letters that reads substantially similar to the
3-59 following:

3-60 I (name of the person facilitating the termination of the
3-61 timeshare interest) WILL ACT IN GOOD FAITH AND IN A COMMERCIALY
3-62 REASONABLE MANNER TO COMPLETE THE TERMINATION OF YOUR TIMESHARE
3-63 INTEREST NOT LATER THAN THE 180TH DAY AFTER THE DATE OF THIS
3-64 AGREEMENT BY OBTAINING:

3-65 (1) A VALID AND ENFORCEABLE RELEASE FROM THE
3-66 DEVELOPER, ASSOCIATION, OR MANAGING ENTITY; OR

3-67 (2) A JUDGMENT OR COURT ORDER INVALIDATING THE
3-68 PURCHASE OR OWNERSHIP OF YOUR TIMESHARE INTEREST.

3-69 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH

4-1 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
 4-2 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
 4-3 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

4-4 I CANNOT GUARANTEE THAT I WILL SUCCESSFULLY COMPLETE THE
 4-5 TERMINATION OF YOUR TIMESHARE INTEREST. IF I FAIL TO COMPLETE THE
 4-6 TERMINATION OF YOUR TIMESHARE INTEREST, YOU WILL CONTINUE TO BE
 4-7 RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES ASSOCIATED WITH
 4-8 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
 4-9 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

4-10 Sec. 221.108. RELIANCE. In making disclosures required by
 4-11 this subchapter, a person facilitating the transfer or termination
 4-12 of a timeshare interest may rely on written information provided by
 4-13 the timeshare interest owner, the developer, the association, or
 4-14 the managing entity.

4-15 Sec. 221.109. DUTY OF GOOD FAITH REGARDING TRANSFER OR
 4-16 TERMINATION SERVICES. A person facilitating the transfer or
 4-17 termination of a timeshare interest must act in good faith to
 4-18 accomplish the transfer or termination not later than the 180th day
 4-19 after the date the person enters into an agreement with the
 4-20 timeshare interest owner.

4-21 Sec. 221.110. DECEPTIVE TRADE PRACTICES. A person subject
 4-22 to this subchapter commits a false, misleading, or deceptive act or
 4-23 practice within the meaning of Sections 17.46(a) and (b), Business
 4-24 & Commerce Code, by engaging in any of the following acts:

4-25 (1) failing to disclose information as required by
 4-26 this subchapter;

4-27 (2) making false or misleading statements concerning:
 4-28 (A) the existence of an offer related to the
 4-29 purchase or rent of a timeshare interest;

4-30 (B) the likelihood of the completion or the time
 4-31 necessary to complete any sale, rental, transfer, or termination of
 4-32 a timeshare interest;

4-33 (C) the value of a timeshare interest;

4-34 (D) the current or future costs, including
 4-35 assessments, maintenance fees, or taxes, of owning a timeshare
 4-36 interest;

4-37 (E) the method by which or source from which a
 4-38 timeshare interest owner's name, address, telephone number, or
 4-39 other contact information was obtained;

4-40 (F) the identity of the person providing services
 4-41 to facilitate the transfer or termination of a timeshare interest
 4-42 or any affiliate, agent, or third-party representative of that
 4-43 person;

4-44 (G) the terms and conditions under which services
 4-45 to facilitate a transfer or termination of a timeshare interest are
 4-46 offered;

4-47 (H) the willingness of a developer, association,
 4-48 or managing entity to:

4-49 (i) agree to the transfer or termination of
 4-50 a timeshare interest; or

4-51 (ii) execute instruments necessary to
 4-52 transfer or terminate the timeshare interest; or

4-53 (I) the manner in which consideration or
 4-54 reimbursements paid by a timeshare interest owner will be used or
 4-55 applied;

4-56 (3) encouraging or inducing a timeshare interest owner
 4-57 to stop paying the developer, the association, or the managing
 4-58 entity in violation of a contract with or any other legally
 4-59 enforceable obligation to the developer, the association, or the
 4-60 managing entity before the completion of a transfer or termination;
 4-61 or

4-62 (4) receiving or collecting consideration for or
 4-63 reimbursement related to the facilitation of the transfer of a
 4-64 timeshare interest before the timeshare interest owner receives the
 4-65 documents described by Sections 221.105(1) and (2).

4-66 Sec. 221.111. SUPERVISORY DUTIES. (a) The person who
 4-67 enters into an agreement to facilitate the transfer or termination
 4-68 of a timeshare interest shall supervise, manage, and control all
 4-69 aspects of the services provided under the agreement.

5-1 (b) Any violation of this subchapter that occurs during the
5-2 provision of services is considered a violation by the person who
5-3 enters into the agreement and any affiliate, agent, or third-party
5-4 representative of that person.

5-5 (c) Section 221.035 does not apply to a person providing
5-6 services under this subchapter.

5-7 SECTION 3. (a) The disclosure and notice requirements
5-8 provided by Subchapter J, Chapter 221, Property Code, as added by
5-9 this Act, apply only to an agreement to facilitate the transfer or
5-10 termination of a timeshare interest entered into on or after the
5-11 effective date of this Act. An agreement to facilitate the transfer
5-12 or termination of a timeshare interest entered into before the
5-13 effective date of this Act is governed by the law as it existed
5-14 immediately before the effective date of this Act, and that law is
5-15 continued in effect for that purpose.

5-16 (b) Section 221.110, Property Code, as added by this Act,
5-17 applies only to conduct that occurs on or after the effective date
5-18 of this Act. Conduct that occurs before the effective date of this
5-19 Act is governed by the law as it existed when the conduct occurred,
5-20 and the former law is continued in effect for that purpose.

5-21 SECTION 4. This Act takes effect September 1, 2015.

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