**South Carolina General Assembly**

123rd Session, 2019-2020

**A66, R86, H3754**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer, Thayer, Clemmons and Rutherford

Document Path: l:\council\bills\nl\13787sd19.docx

Introduced in the House on January 24, 2019

Introduced in the Senate on February 26, 2019

Last Amended on May 9, 2019

Passed by the General Assembly on May 9, 2019

Governor's Action: May 16, 2019, Signed

Summary: Vacation Time-Sharing Plan Extensions and Termination

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2019 House Introduced and read first time ([House Journal‑page 42](file:///h:\hj\20190124.docx))

1/24/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 42](file:///h:\hj\20190124.docx))

2/14/2019 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 26](file:///h:\hj\20190214.docx))

2/19/2019 Scrivener's error corrected

2/21/2019 House Amended ([House Journal‑page 100](file:///h:\hj\20190221.docx))

2/21/2019 House Read second time ([House Journal‑page 100](file:///h:\hj\20190221.docx))

2/21/2019 House Roll call Yeas‑109 Nays‑0 ([House Journal‑page 101](file:///h:\hj\20190221.docx))

2/21/2019 House Unanimous consent for third reading on next legislative day ([House Journal‑page 102](file:///h:\hj\20190221.docx))

2/22/2019 House Read third time and sent to Senate ([House Journal‑page 1](file:///h:\hj\20190222.docx))

2/22/2019 Scrivener's error corrected

2/26/2019 Senate Introduced and read first time

2/26/2019 Senate Referred to Committee on **Judiciary**

3/18/2019 Senate Referred to Subcommittee: Talley (ch), Hutto, Massey, Sabb, Goldfinch

4/30/2019 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 16](file:///h:\sj\20190430.docx))

5/1/2019 Scrivener's error corrected

5/7/2019 Senate Committee Amendment Adopted ([Senate Journal‑page 106](file:///h:\sj\20190507.docx))

5/7/2019 Senate Amended ([Senate Journal‑page 106](file:///h:\sj\20190507.docx))

5/7/2019 Senate Read second time ([Senate Journal‑page 106](file:///h:\sj\20190507.docx))

5/7/2019 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 106](file:///h:\sj\20190507.docx))

5/8/2019 Scrivener's error corrected

5/8/2019 Senate Read third time and returned to House with amendments ([Senate Journal‑page 76](file:///h:\sj\20190508.docx))

5/9/2019 House Senate amendment amended ([House Journal‑page 170](file:///h:\hj\20190509.docx))

5/9/2019 House Returned to Senate with amendments ([House Journal‑page 170](file:///h:\hj\20190509.docx))

5/9/2019 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 102](file:///h:\sj\20190509.docx))

5/13/2019 Ratified R 86

5/16/2019 Signed By Governor

5/31/2019 Effective date 05/16/19

6/5/2019 Act No.  66

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**VERSIONS OF THIS BILL**

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(A66, R86, H3754)

**AN ACT TO AMEND SECTION 27‑32‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO VACATION TIME SHARING PLANS, SO AS TO DEFINE THE TERM “TIMESHARE DECLARATION”; TO AMEND SECTION 27‑32‑410, RELATING TO TIMESHARE CLOSINGS, PROCEDURES, AND RELATED PROVISIONS, SO AS TO FURTHER PROVIDE FOR WHEN A TIMESHARE CLOSING IS CONSIDERED TO HAVE OCCURRED IN THE CASE OF AN INSTALLMENT SALES CONTRACT, AND OTHER REQUIREMENTS IN REGARD TO THE CLOSING; BY ADDING ARTICLE 5 TO CHAPTER 32, TITLE 27 SO AS TO ENACT THE “VACATION TIME SHARING PLAN EXTENSION AND TERMINATION ACT”, INCLUDING PROVISIONS TO CLARIFY AND SUPPLEMENT THE PROCEDURES AND REQUIREMENTS AS TO HOW OWNERS OF VACATION TIME SHARING INTERESTS MAY TERMINATE VACATION TIME SHARING PLANS OR EXTEND THE TERMS OF THESE PLANS, WITH THE PROVISIONS OF ARTICLE 5 TO APPLY BOTH PROSPECTIVELY AND RETROACTIVELY; AND TO AMEND SECTION 27‑30‑120, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO HOMEOWNERS ASSOCIATIONS, SO AS TO REVISE THE DEFINITION OF “HOMEOWNERS ASSOCIATION”.**

Be it enacted by the General Assembly of the State of South Carolina:

**Definition added**

SECTION 1. Section 27‑32‑10 of the 1976 Code is amended by adding an appropriately numbered item to read:

“( ) ‘Timeshare declaration’ means the document or documents which provide the legal framework for the establishment of the method of interval ownership and which is or are recorded at the office of the Clerk of Court, Register of Mesne Conveyance, or the Register of Deeds as may be determined by the county in which the vacation time sharing property is located.”

**Timeshare closings**

SECTION 2. Section 27‑32‑410(A) of the 1976 Code is amended to read:

“(A)(1) The timeshare closing is considered to occur after the last of the following events:

(i) the deed and other applicable instruments are submitted for recordation, or

(ii) the closing date specified in the executed documents. Notwithstanding the above, in the case of an installment sales contract, the timeshare closing is considered to occur or have occurred on the closing date specified in the executed documents or six months after the execution of an installment sales contract in the event no closing date is specified in the executed documents.

(2) Simultaneously with the closing, a seller shall record each timeshare installment sales contract or evidence of each contract, if the installment sales contract promises the purchaser a deed evidencing ownership of a timeshare interest in real property. In the event the installment sales contract is fully performed, the recorded contract or evidence of it, is considered to have merged into the deed conveying the timeshare interest upon recording of the deed.

(3) The documents conveying rights and interests in timeshare real property must not be presented to a timeshare purchaser before the closing of an interest in a vacation time sharing plan in this State unless the form of the document is prepared under the supervision of an attorney licensed in this State who is not an employee of the seller of the timeshare interest. An attorney licensed in this State who is not an employee of the seller of the timeshare interest shall supervise the timeshare closing of a sale of an interest in a vacation time sharing plan located in this State by:

(i) supervising the examination of title to the interest;

(ii ) physically reviewing before closing the executed transaction documents including, but not limited to, the following, as applicable: the deed, installment sales contract, mortgage, and promissory note; and

(iii) supervising the recording of all instruments involved in the timeshare closing.”

**Extension or termination of vacation time sharing plans**

SECTION 3. Chapter 32, Title 27 of the 1976 Code is amended by adding:

“Article 5

Extension or Termination of Vacation Time Sharing Plans

Section 27‑32‑500. This article may be cited as the ‘Vacation Time Sharing Plan Extension and Termination Act’.

Section 27‑32‑505. The General Assembly declares that the purposes of this article are to recognize that:

(A) Vacation time sharing plans are created as authorized by statute with most of the older vacation time sharing properties based on a horizontal property regime structure, and many of these older vacation time sharing properties are approaching the termination dates set forth in their governing documents, some of which governing documents address termination or extension of the vacation time sharing property and some of which do not address termination or extension.

(B) In order to provide the owners of vacation time sharing interests with the right to terminate vacation time sharing plans or to extend the terms of vacation time sharing plans and preserve the continued use, enjoyment, and tax values of these time sharing properties, the General Assembly further declares that the public policy of this State requires the creation of a statutory method to enable the owners of these vacation time sharing properties to either terminate their vacation time sharing plans or extend the terms of their vacation time sharing plans, notwithstanding contrary provisions in their governing documents which may create uncertainty for purchasers, prospective purchasers, owners, and lenders, and which may discourage the ongoing maintenance, refurbishment, and improvement of these vacation time sharing properties.

Section 27‑32‑510. (A) Unless the timeshare declaration provides a lower percentage, the vote or written consent, or both, of sixty percent of all eligible voting interests in a vacation time sharing plan may extend the term of the vacation time sharing plan at any time. If the term of a vacation time sharing plan is extended pursuant to this section, all rights, privileges, duties, and obligations created under applicable law or the timeshare declaration continue in full force to the same extent as if the extended termination date of the vacation time sharing plan were the original termination date of the vacation time sharing plan.

(B) Unless the timeshare declaration specifically provides for a lower quorum, the quorum for a vacation time sharing association meeting to consider extension of the term of the vacation time sharing plan is fifty percent of all eligible voting interests in the vacation time sharing plan.

(C) A vacation time sharing association meeting held to consider extension of the term of the vacation time sharing plan may be held at any time before the termination of the vacation time sharing plan.

(D) The board of directors of the vacation time sharing association may determine that a voting interest that is delinquent in the payment of more than two years of assessments is ineligible to consent to or vote on an extension of the vacation time sharing plan unless the delinquency is paid in full before the consent or vote. A voting interest determined to be ineligible by the board of directors must be subtracted from the total percentage or number of all voting interests required to consent to or vote to approve the extension of the vacation time sharing plan and must not be considered for any purpose, including the percentage or number of voting interests necessary to constitute a quorum.

(E) A proxy for a vote to extend a vacation time sharing plan pursuant to this section is valid for up to three years and is revocable unless the proxy states it is irrevocable.

Section 27‑32‑520. (A) Unless the timeshare declaration provides a lower percentage, the vote or written consent, or both, of sixty percent of all eligible voting interests in a vacation time sharing plan may terminate the term of the vacation time sharing plan at any time. If a vacation time sharing plan is terminated pursuant to this section, the termination has immediate effect as if the effective date of the termination were the original date of termination.

(B) If the vacation time sharing property is managed by a vacation time sharing association that is separate from any underlying owners’ association, the termination of a vacation time sharing plan does not change the corporate status of the vacation time sharing association. The vacation time sharing association continues to exist only for the purposes of concluding its affairs, prosecuting and defending actions by or against it, collecting and discharging obligations, disposing of and conveying its property, collecting and dividing its assets, and otherwise complying with this section.

(C) After termination of a vacation time sharing plan, the board of directors of the vacation time sharing association shall serve as the termination trustee, as the entity empowered to implement the termination of the vacation time sharing plan, and in this fiduciary capacity may bring an action in partition on behalf of the tenants in common in each former vacation time sharing property or sell the former vacation time sharing property in a manner and to a person who is approved by a majority of all tenants in common. The termination trustee also has all other powers reasonably necessary to effect the partition or sale of the former vacation time sharing property, including the power to maintain the property during the pendency of a partition action or sale.

(D) All reasonable expenses incurred by the termination trustee relating to the performance of its duties pursuant to this section, including the reasonable fees of attorneys and other professionals, must be paid by the tenants in common of the former vacation time sharing property subject to partition or sale, proportionate to their respective ownership interests.

(E) The termination trustee shall adopt reasonable procedures to implement the partition or sale of the former vacation time sharing property and comply with the requirements of this section.

(F) If the terminated vacation time sharing plan is in an underlying subdivision that is not simultaneously terminated, a majority of the tenants in common in each former accommodation present and voting in person or by proxy at a meeting of the tenants in common conducted by the termination trustee, or conducted by the board of directors of the underlying owners’ association, if the underlying owners’ association managed the former vacation time sharing property, shall designate a voting representative for the former accommodation and file a voting certificate with the underlying owners’ association. The voting representative may vote on all matters at meetings of the underlying owners’ association, including termination of the underlying subdivision.

(G) Unless the timeshare declaration specifically provides for a lower quorum, the quorum for a vacation time sharing association meeting to consider termination of the vacation time sharing plan is fifty percent of all eligible voting interests in the vacation time sharing plan.

(H) The board of directors of the vacation time sharing association may determine that a voting interest that is delinquent in the payment of more than two years of assessments is ineligible to consent to or vote on any termination of the vacation time sharing plan unless the delinquency is paid in full before the consent or vote. A voting interest determined to be ineligible by the board of directors must be subtracted from the total percentage or number of all voting interests required to consent to or vote to approve the termination of the vacation time sharing plan and must not be considered for any purpose, including the percentage or number of voting interests necessary to constitute a quorum.

(I) A proxy for a vote to terminate a vacation time sharing plan pursuant to this section is valid for up to three years and is revocable unless the proxy states it is irrevocable.

Section 27‑32‑530. The provisions of this article apply to all vacation time sharing plans in this State in existence on or after the effective date of this article and apply retroactively.”

**Definition revised**

SECTION 4. Section 27‑30‑120(6) of the 1976 Code, as added by Act 245 of 2018, is amended to read:

“(6) ‘Homeowners association’ or ‘association’ means an entity developed to manage and maintain a planned community or horizontal property regime for which there is a declaration requiring a person, by virtue of his ownership of a separate property within the planned community or horizontal property regime, to pay assessments for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements and other real estate described in that declaration. A ‘homeowners association’ or ‘association’ does not include a vacation time sharing plan organized and subject to the provisions of Chapter 32.”

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2019.

Approved the 16th day of May, 2019.

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