

SENATE BILL NO. 176—SENATOR SCHNEIDER

MARCH 5, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to time shares.
(BDR 10-692)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to time shares; providing for the relocation of a time share under certain circumstances; authorizing the withdrawal of time share units from a time-share plan under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that certain types of time shares may be relocated to another unit or parcel if certain conditions are satisfied. **Section 1** only authorizes such relocation of a time share if: (1) the time share is owned by the developer; or (2) the relocation is approved by a majority of the association and agreed to by the developer.

Existing law provides that if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser. (NRS 119A.495) **Section 2** of this bill allows units or parcels to be withdrawn from a time-share plan by the developer if all the requirements for such a withdrawal are met, including consent by any remaining owners, amendment of the time-share instrument to reflect the withdrawal, and the establishment or amendment of agreements between the developer and the association to share certain costs equitably.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any time share that is an undivided fee simple interest or leasehold interest in a unit or parcel on which units are located,



1 and any time share that is a license, may be relocated to another
2 unit or parcel on which units are located:

3 (a) If the replacement unit or parcel:

4 (1) Is within the same project and governed by the same
5 time-share instrument as the original unit or parcel;

6 (2) Provides the owner of the time share the opportunity to
7 enjoy a substantially similar vacation experience as available with
8 the original unit or parcel; and

9 (3) Contains similar sleeping accommodations for at least
10 the same number of persons as the original unit or original unit
11 type within the parcel;

12 (b) If there is to be no increase in the amount of the
13 maintenance fees allocable to the time share to be relocated solely
14 as the result of the relocation;

15 (c) If a one-to-one use right to use right ratio is to be
16 maintained after the relocation;

17 (d) If the location and historical use of the time share to be
18 relocated are considered in furthering the best interests of the
19 owner with respect to the owner's opportunity to use and enjoy the
20 time-share plan;

21 (e) If the time share is not a fixed-unit time share; and

22 (f) If the time share is a fixed-week time share or the rights of
23 use for the time share are within a particular season of the year, if
24 use of the time share in the same fixed week or season is available
25 to the owner of the time share after the relocation.

26 2. Relocation of a time share pursuant to this section only
27 applies to a time share that is owned by the developer, unless the
28 relocation is:

29 (a) Approved by the vote or the written consent of members of
30 the association, excluding the developer, constituting the
31 minimum percentage of the voting power of the association which
32 constitutes a quorum pursuant to NRS 82.291; and

33 (b) Agreed to in writing by the developer.

34 3. The relocation of each time share pursuant to this section
35 must be made by the recordation of an instrument signed by the
36 developer that identifies:

37 (a) The names of the record owners of each time share to be
38 relocated;

39 (b) The permanent identifying number, if any, of each time
40 share;

41 (c) A legal description of the unit or parcel and a description
42 of the unit type of each time share to be relocated; and

43 (d) A legal description of the unit or parcel and a description
44 of the unit type to which each time share will be reassigned.



* S B 1 7 6 R 2 *

4. Upon recordation of the instrument described in subsection 3 and the mailing of the recorded instrument to the owner by certified mail, return receipt requested, to the last known address of the owner as shown in the records of the association, the owner of the time share identified in the recorded instrument shall be deemed to have no further right, title or interest in the unit or parcel originally conveyed or assigned to the owner.

5. For the purposes of this section, in determining whether the replacement unit or parcel "provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel," the following factors must be considered with respect to the similarity of the replacement unit or parcel and the original unit or parcel:

- (a) Size;
- (b) Furnishings;
- (c) Reservation rights;
- (d) Standards of maintenance; and
- (e) Location, including scenery, topography and geographic location.

6. As used in this section:

(a) "Fixed-unit time share" means a time share in which the owner's rights of use are in a single designated unit.

(b) "Fixed-week time share" means a time share in which the owner's rights of use are within a certain week or weeks on a recurrent, periodic basis, and the weeks of use may rotate based on a fixed-week calendar.

(c) "One-to-one use night to use right ratio" means that the sum of the number of nights that owners are entitled to use in a 12-month period does not exceed the number of nights available for use by those owners during that 12-month period. For the purposes of this paragraph:

(1) No individual time-share unit may be counted as providing more than 365 nights of use per 12-month period or more than 366 nights of use per 12-month period that includes February 29; and

(2) The rights of use of each owner must be counted without regard to whether that owner's rights of use have been suspended as the result of the failure to pay assessments or for any other reason.

Sec. 2. NRS 119A.495 is hereby amended to read as follows:
119A.495 ~~HH~~

1. Except as otherwise provided in subsection 2, if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not



* S B 1 7 6 R 2 *

be withdrawn if a time share attributable to that unit is owned by a purchaser.

2. Any legally created units or parcels within a project may be withdrawn from the time-share plan by the developer if:

(a) All remaining owners having an interest in the unit or parcel, if there are any such remaining owners, give written consent to the withdrawal;

(b) The developer amends the time-share instrument which established the time-share plan to reduce the number of units or parcels included in the time-share plan by the number of units or parcels withdrawn pursuant to this subsection;

(c) Any existing cost-sharing agreement between the developer and the association covering shared common areas or amenities is amended to reflect the reduction in the number of units or parcels included in the time-share plan as the result of the withdrawal of units or parcels pursuant to this subsection; and

(d) A new cost-sharing agreement which covers any common areas or amenities that are shared by the remaining units or parcels within the time-share plan and the units or parcels withdrawn pursuant to this subsection and which allocates the shared costs proportionately between the developer and the association according to the number and size of the units withdrawn pursuant to this subsection is entered into between the developer and the association.

