

1 H.441
2 Introduced by Representatives Scheuermann of Stowe and Peltz of Woodbury
3 Referred to Committee on
4 Date:
5 Subject: Uniform Common Interest Ownership Act; powers of unit owner's
6 association; owners of time-shares
7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 Vermont Common Interest Ownership Act related to owners of time-shares.

9 An act relating to changing provisions within the Vermont Common
10 Interest Ownership Act related to owners of time-shares

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 ~~Sec. 1. 27A V.S.A. § 3-102 is amended to read:~~

13 ~~§ 3-102. POWERS OF UNIT OWNERS' ASSOCIATION~~

14 ~~(a) Except as otherwise provided in subsection (b) of this section and other~~
15 ~~provisions of this title, the association:~~

16 ~~* * *~~

17 ~~(18) May suspend any right or privilege of a unit owner that fails to pay~~
18 ~~an assessment, but may not:~~

19 ~~(A) except as otherwise provided in subsection 3-116(q) of this title,~~
20 ~~deny a unit owner or other occupant access to the owner's unit;~~

1 ~~(B) suspend a unit owner's right to vote;~~

2 (C) prevent a unit owner from seeking election as a director or officer
3 of the association; or

4 (D) withhold services provided to a unit or a unit owner by the
5 association if the effect of withholding the service would be to endanger the
6 health, safety, or property of any person.

7 * * *

8 Sec. 2. 27A V.S.A. § 3-116 is amended to read:

9 § 3-116. LIEN FOR SUMS DUE ASSOCIATION; ENFORCEMENT

10 * * *

11 (j) The association's lien may be foreclosed pursuant to 12 V.S.A. § 4531a
12 § 4941, 4945, or 4961 and subsection (o) of this section. The association shall
13 give the notice required by statute, or if there is no such requirement,
14 reasonable notice of its action to all lienholders of the unit whose interest
15 would be affected.

16 * * *

17 (q) Unless other procedures are provided in the declaration, bylaws, or
18 rules, an association of time-share unit owners may not deny an owner of a
19 time-share access to the owner's time-share for failure to pay an assessment
20 unless:

1 ~~(1) the time share owner is delinquent in payment of that owner's~~
2 common expense assessments based on the periodic budget last adopted by the
3 association pursuant to section 3-115(a) of this title; and

4 (2) the association provides written notice of the delinquency to the
5 time-share owner no later than 30 days after the date the assessment was due,
6 but in no case later than 30 days before the date the time-share owner is
7 entitled to occupy that owner's time-share.

8 (3) The following provisions apply to the notice required in subdivision
9 (2) of this subsection:

10 (A) The notice shall clearly state the total amount of any delinquency
11 which then exists, including any accrued interest and late charges permitted to
12 be imposed under the terms of the declaration or bylaws and including a per
13 diem amount, if any, to account for further accrual of interest and late charges
14 between the stated effective date of the notice and the first date of use;

15 (B) The notice shall clearly state that the time-share owner will not
16 be permitted to use his or her time-share period, that the time-share owner will
17 not be permitted to make a reservation in the time-share plan's reservation
18 system, or that any confirmed reservation may be canceled, as applicable, until
19 the total amount of such delinquency is satisfied in full or until the time-share
20 owner produces satisfactory evidence that the delinquency does not exist.

1 ~~(C) The notice shall be mailed to the time share owner at his or her~~
2 last known address as recorded in the books and records of the time-share plan,
3 and the notice shall be effective to bar the use of the time-share owner and
4 those claiming use rights under the time-share owner, including his or her
5 guests, lessees, and the third parties receiving use rights in the time-share in
6 question through a nonaffiliated exchange program, until such time as the unit
7 owner is no longer delinquent.

8 (D) If the association wishes to deny use of the owner's time-share to
9 any third party receiving use rights through an affiliated exchange program, the
10 association shall at the same time provide similar written notice of the owner's
11 delinquency as required in subdivision (2) of this subsection to any affiliated
12 exchange program. Receipt of the written notice by the affiliated exchange
13 program is effective to bar the use of all third parties claiming through the
14 affiliated exchange program.

15 Sec. 3. 12 V.S.A. § 4931(2) is amended to read:

16 (2) "Dwelling house" means a residential structure or mobile home which
17 contains one to four family housing units, or individual units of condominiums
18 or cooperatives, other than a time-share interest in a unit, each of which is used
19 or intended to be used as a residence. For the purposes of this subdivision,
20 "time-share" means a time-share estate as defined by 32 V.S.A. § 3619(a).

1 ~~Sec. 4. 14 V.S.A. § 1902 is amended to read:~~

2 § 1902. LETTERS OF ADMINISTRATION AND LETTERS

3 TESTAMENTARY, SMALL ESTATES, NOTICE

4 (a) Upon receiving and filing such petition, the judge of probate may make
5 such investigation of the circumstances of the case and the facts set forth in the
6 petition, as he or she deems proper and necessary.

7 (b) The court may grant administration of the estate to the petitioner or
8 some other suitable person forthwith without further notice, and may issue
9 letters of administration to the administrator or letters testamentary to the
10 executor without requiring further bonds, if from the petition and the
11 investigation it appears to the satisfaction of the court that:

12 (1)(A) the deceased left a surviving spouse or children of any age, or
13 both; or

14 (B) the deceased left a surviving parent or parents but no spouse or
15 child;

16 (2) the deceased died seized of no real estate other than a time-share
17 estate as defined by 32 V.S.A. § 3619(a); and

18 (3) the personal estate of the deceased, appraised at its true cash value as
19 of the date of death, amounts to not more than the sum of \$10,000.00.

20 Sec. 5. EFFECTIVE DATE

21 This act shall take effect on July 1, 2013.

Sec. 1. 27A V.S.A. § 3-102 is amended to read:

§ 3-102. POWERS OF UNIT OWNERS' ASSOCIATION

(a) Except as otherwise provided in subsection (b) of this section and other provisions of this title, the association:

** * **

(18) May suspend any right or privilege of a unit owner that fails to pay an assessment, but may not:

(A) except as otherwise provided in subsection 3-116(q) of this title, deny a unit owner or other occupant access to the owner's unit;

(B) suspend a unit owner's right to vote;

(C) prevent a unit owner from seeking election as a director or officer of the association; or

(D) withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

** * **

Sec. 2. 27A V.S.A. § 3-108(b) is amended to read:

(b) The following requirements apply to meetings of the executive board and committees of the association authorized to act for the association:

** * **

(6) If any materials are distributed to the executive board before the meeting, the executive board at the same time shall make copies of those materials reasonably available to unit owners, except;

(A) that the board need not make available copies of unapproved minutes or materials that are to be considered in executive session; and

(B) the board of an association composed exclusively of time-share unit owners shall be required to make reasonably available to the unit owners only those materials concerning matters on which action will be taken at the meeting.

* * *

Sec. 3. 27A V.S.A. § 3-116 is amended to read:

§ 3-116. LIEN FOR SUMS DUE ASSOCIATION; ENFORCEMENT

* * *

(j) The association's lien may be foreclosed pursuant to 12 V.S.A. ~~§ 4531a~~ § 4941, 4945, or 4961 chapter 172 and subsection (o) of this section. The association shall give the notice required by statute, or if there is no such requirement, reasonable notice of its action to all lienholders of the unit whose interest would be affected.

* * *

(q) Unless other procedures are provided in the declaration, bylaws, or rules, an association of time-share unit owners may not deny an owner of a

time-share access to the owner's time-share for failure to pay an assessment

unless:

(1) the time-share owner is delinquent in payment of that owner's common expense assessments based on the periodic budget last adopted by the association pursuant to section 3-115(a) of this title; and

(2) the association provides written notice of the delinquency to the time-share owner no less than 30 days after the date the assessment was due, but in no case later than 30 days before the date the time-share owner is entitled to occupy that owner's time-share.

(3) The following provisions apply to the notice required in subdivision (2) of this subsection:

(A) The notice shall clearly state the total amount of any delinquency which then exists, including any accrued interest and late charges permitted to be imposed under the terms of the declaration or bylaws and including a per diem amount, if any, to account for further accrual of interest and late charges between the stated effective date of the notice and the first date of use;

(B) The notice shall clearly state that the time-share owner will not be permitted to use his or her time-share interest, that the time-share owner will not be permitted to make a reservation in the time-share property's reservation system, or that any confirmed reservation may be canceled, as applicable, until the total amount of such delinquency is satisfied in full or

until the time-share owner produces satisfactory evidence that the delinquency does not exist.

(C) The notice shall be mailed to the time-share owner at his or her last known address as recorded in the books and records of the time-share property, and the notice shall be effective to bar the use of the time-share owner and those claiming use rights under the time-share owner, including his or her guests, lessees, and the third parties receiving use rights in the time-share in question through a nonaffiliated exchange program, until such time as the unit owner is no longer delinquent.

(D) If the association elects to deny use of the owner's time-share to any third party receiving use rights through an affiliated exchange program, the association shall at the same time provide similar written notice of the owner's delinquency as required in subdivision (2) of this subsection to any affiliated exchange program. Receipt of the written notice by the affiliated exchange program is effective to bar the use of all third parties claiming through the affiliated exchange program.

Sec. 4. 12 V.S.A. § 4931(2) is amended to read:

(2) "Dwelling house" means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives, other than a time-share in a unit, each of which is used or intended to be used as a residence. For the purposes of this

subdivision, "time-share" means a time-share estate as defined by 32 V.S.A.

§ 3619(a).

Sec. 5. 14 V.S.A. § 1902 is amended to read:

§ 1902. LETTERS OF ADMINISTRATION AND LETTERS

TESTAMENTARY, SMALL ESTATES, NOTICE

(a) Upon receiving and filing such petition, the judge of probate may make such investigation of the circumstances of the case and the facts set forth in the petition, as he or she deems proper and necessary.

(b) The court may grant administration of the estate to the petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to the administrator or letters testamentary to the executor without requiring further bonds, if from the petition and the investigation it appears to the satisfaction of the court that:

(1)(A) the deceased left a surviving spouse or children of any age, or both; or

(B) the deceased left a surviving parent or parents but no spouse or child;

(2) the deceased died seized of no real estate other than a time-share estate as defined by 32 V.S.A. § 3619(a); and

(3) the personal estate of the deceased, appraised at its true cash value as of the date of death, amounts to not more than the sum of \$10,000.00.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, ~~2013~~ 2014.