

BILL ANALYSIS

H.B. 2261
By: Villalba
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties assert that legislative action is necessary to combat fraud in timeshare transactions with transfer and exit companies that solicit timeshare interest owners to transfer ownership of their timeshares while claiming to relieve owners of maintenance fees, taxes, and other obligations of ownership. These companies typically require payment in advance, using aggressive and often misleading telemarketing and seminar sales techniques to sell owners on their services. Reports indicate that the companies using misleading tactics often take the up-front, nonrefundable payment from the timeshare interest owner and do not follow through with the transfer or tell the owner that the buyer that was lined up has backed out. H.B. 2261 seeks to address these deceptive practices while permitting legitimate service providers to continue to operate.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2261 amends the Property Code to require a person who enters into an agreement with a timeshare interest owner to facilitate the transfer or termination of an applicable timeshare interest to provide to the timeshare interest owner specified written disclosures regarding the timeshare interest, the parties involved in the agreement, and the transfer or termination, as applicable. The bill requires such a person to also disclose in writing to the timeshare interest owner the name of any person, other than the timeshare interest owner, who may occupy, rent, exchange, or otherwise use the timeshare interest during the term of the agreement and requires the agreement, if a person is so authorized, to state the name of each person receiving consideration for the occupation, rent, exchange, or use of the timeshare interest.

H.B. 2261 requires such a person who enters into an agreement with a timeshare interest owner to facilitate the transfer of the timeshare interest to disclose in writing to the timeshare interest owner that the timeshare interest owner is not required to pay any consideration or reimbursement under the agreement until the timeshare interest owner receives a written acknowledgement from the developer, the timeshare interest association, or the managing entity that the person facilitating the transfer under the agreement complied with all applicable policies, if any, governing the transfer of the timeshare interest and a copy of the instrument transferring the timeshare interest, recorded, if required by applicable law, in the real property records of the county in which the timeshare property is located.

H.B. 2261 requires a person who enters into an agreement with a timeshare interest owner to facilitate the transfer or termination of the timeshare interest to provide a notice regarding the transfer or termination services, as applicable, and prescribes the format and specific language of the notice. The bill authorizes a person facilitating the transfer or termination of a timeshare interest, in making required disclosures under the bill's provisions, to rely on written information provided by the timeshare interest owner, the developer, the timeshare interest association, or the managing entity and requires such a person to act in good faith to accomplish the transfer or termination not later than the 180th day after the date the person enters into an agreement with the timeshare interest owner. The bill prescribes the acts committed by a person subject to the bill's provisions that constitute an unlawful false, misleading, or deceptive act or practice.

H.B. 2261 requires the person who enters into an agreement to facilitate the transfer or termination of a timeshare interest to supervise, manage, and control all aspects of the services provided under the agreement and specifies that any violation of the bill's provisions that occurs during the provision of services is a violation by the person who enters into the agreement and any affiliate, agent, or third-party representative of that person. The bill specifies that Texas Timeshare Act provisions requiring a developer to supervise, manage, and control all aspects of the offering of a timeshare interest do not apply to a person providing services under the bill's provisions.

H.B. 2261 applies to a timeshare interest if the timeshare interest has been acquired only for the purchaser's personal, family, or household use and the timeshare interest is owned by a Texas resident, the timeshare property is located in Texas, or the timeshare interest acquired is in a registered multisite timeshare plan. The bill also makes its provisions applicable to timeshare properties located outside Texas. The bill applies to a person who is acting in the ordinary course of business and directly or indirectly, regardless of whether acting in person, by mail, by telephone, or by any mode of Internet or electronic communication, offers or advertises an offer to engage in, for consideration, the following activities: obtaining or attempting to obtain on behalf of a timeshare interest owner a release of the owner's timeshare interest from any person or a judgment or court order invalidating the owner's timeshare interest; selling, renting, listing, or advertising a timeshare interest on behalf of a timeshare interest owner; purchasing a timeshare interest from a timeshare interest owner; or assisting in the transfer of an owner's timeshare interest. The bill exempts from its provisions a broker or salesperson licensed under The Real Estate License Act acting as a broker, agent, or salesperson under that person's license in connection with the transfer or termination of a timeshare interest; a developer, timeshare interest association, or managing entity for a timeshare interest to be transferred or terminated; and an attorney, title agent, title company, or escrow company that provides only closing, settlement, or other specific transaction services in connection with the transfer or termination of a timeshare interest and does not otherwise engage in the specified activities of a person to whom the bill's provisions apply.

EFFECTIVE DATE

September 1, 2015.