

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE JULY 6, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2518

Introduced by Assembly Member Hall
(Coauthor: Assembly Member Hill)

February 24, 2012

An act to amend Section 11273 of the Business and Professions Code, relating to land use, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2518, as amended, Hall. Vacation ownership and time-shares: owners list.

The Vacation Ownership and Time-share Act of 2004 requires a time-share association to maintain among its records a complete list of the names and addresses of all owners of time-share interests in the time-share plan, as specified. Existing law prohibits an association from publishing the owners list or providing a copy of it to any time-share interest owner or to any 3rd party or using or selling the list for commercial purposes, except as provided in the time-share instruments.

This bill would require the association to maintain a complete list of the names and post office addresses of all owners of time-share interests in the time-share plan, and would prohibit the association from publishing the owners list or providing a copy of it to any time-share interest owner or to any 3rd party or using or selling the list for commercial purposes. The bill would provide ~~an alternate method~~ *methods* for a time-share interest ~~owners~~ *owner* to communicate with

the entire membership of the association *through a written request to the association*, as specified. *The bill would authorize an owner, whose request to communicate was denied by the association, to file a court action, and, under certain circumstances, authorize a court to award to the requesting owner costs, including attorney’s fees, reasonably incurred to enforce the owner’s rights.* The bill would also specify that certain provisions of the Nonprofit Mutual Benefit Corporation Law do not apply to time-share associations under the Vacation Ownership and Time-share Act of 2004.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11273 of the Business and Professions
- 2 Code is amended to read:
- 3 11273. (a) The books of account, minutes of members and
- 4 governing body meetings, and all other records of the time-share
- 5 plan maintained by the association or the managing entity shall be
- 6 made available for inspection and copying by any member, or by
- 7 his or her duly appointed representative, at any reasonable time
- 8 for a purpose reasonably related to membership in the association.
- 9 (b) The records shall be made available for inspection at the
- 10 office where the records are maintained. Upon receipt of an
- 11 authenticated written request from a member along with the fee
- 12 prescribed by the governing body to defray the costs of
- 13 reproduction, the managing entity or other custodian of records of
- 14 the association or the time-share plan shall prepare and transmit
- 15 to the member a copy of any and all records requested.
- 16 (c) The governing body shall establish reasonable rules with
- 17 respect to all of the following:
- 18 (1) Notice to be given to the managing entity or other custodian
- 19 of the records by the member desiring to make the inspection or
- 20 to obtain copies.
- 21 (2) Hours and days of the week when a personal inspection of
- 22 the records may be made.
- 23 (3) Payment of the cost of reproducing copies of records
- 24 requested by a member.

1 (d) Every governing body member shall have the absolute right
2 at any time to inspect all books, records, and documents of the
3 association and all real and personal properties owned and
4 controlled by the association.

5 (e) (1) The association shall maintain among its records a
6 complete list of the names and post office addresses of all owners
7 of time-share interests in the time-share plan. The association shall
8 update this list no less frequently than every six months. The
9 association shall not publish this owner's list or provide a copy of
10 it to any time-share interest owners or to any third party or use or
11 sell the list for commercial purposes.

12 (2) If an owner of a time-share interest in the time-share plan
13 provides a written request to the association to communicate with
14 the membership of the association, the association shall, within
15 30 days of the date of the written request, determine whether the
16 communication would advance legitimate association business,
17 and shall provide a method of making the requested communication
18 without providing access to, or a copy of, the association
19 membership list to the requesting owner. *Legitimate association*
20 *business includes, but is not limited to, a proxy solicitation for any*
21 *purpose, the recall of one or more board members elected by the*
22 *owners, and communication relating to a proposed special*
23 *assessment. Legitimate association business does not include*
24 *commercial solicitations of any type, or communications relating*
25 *to a matter between an owner and the developer of the time-share*
26 *plan. The association shall notify the requesting owner of the costs*
27 *associated with making the communication, prior to making the*
28 *communication, and the requesting owner shall provide payment*
29 *to the association prior to the time the association makes the*
30 *communication. Any alternative method that accomplishes the*
31 *purposes set forth in a written request pursuant to this paragraph*
32 *shall be deemed presumed to be a reasonable alternative. The*
33 *association shall consider alternative methods that are cost*
34 *efficient options that the association would utilize if it were paying*
35 *for the cost of the communication. If the association determines*
36 *that a communication will not advance legitimate association*
37 *business, the association shall, within 30 days, notify the requesting*
38 *owner in writing and shall indicate the reasons for the rejection.*
39 *If the association determines that a communication will not*
40 *advance legitimate association business, a requesting owner may*

1 *appeal to the court with jurisdiction over the association. If the*
2 *court determines the communication would advance legitimate*
3 *association business, the court may order the association to pay*
4 *a requesting owner's costs, including attorney's fees, reasonably*
5 *incurred to enforce the requesting owner's rights.*

6 (3) Section 8330 of the Corporations Code shall not apply to
7 time-share associations under this act.

8 (f) For single site time-share plans and component sites of a
9 multisite time-share plan located outside of the state, the association
10 shall be subject to the provisions set forth in this section. The
11 association must be in compliance with the applicable laws of the
12 state or jurisdiction in which the time-share property or component
13 site is located, and if a conflict exists between laws of the situs
14 state and the requirements set forth in this section, the law of the
15 situs state shall control. If the association and the time-share
16 instruments provide for the matters contained in this section, the
17 association shall be deemed to be in compliance with the
18 requirements of this section and neither the developer nor the
19 association shall be required to make revisions to the time-share
20 instruments in order to comply with the section.

21 *SEC. 2. This act is an urgency statute necessary for the*
22 *immediate preservation of the public peace, health, or safety within*
23 *the meaning of Article IV of the Constitution and shall go into*
24 *immediate effect. The facts constituting the necessity are:*

25 *In order to protect Californians from the dangers of identity*
26 *theft, it is necessary that this act take effect immediately.*

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