

ASSEMBLY BILL

No. 634

Introduced by Assembly Member Calderon

February 24, 2015

An act to amend Section 11273 of the Business and Professions Code, relating to time-shares.

LEGISLATIVE COUNSEL'S DIGEST

AB 634, as introduced, Calderon. Vacation ownership and time-shares: owners list.

The Vacation Ownership and Time-share Act of 2004 requires all records of a time-share plan maintained by a time-share association to be made available for inspection and copying by any member for a purpose reasonably related to membership in the association. Existing law requires the 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 owner addresses in the list to be mailing addresses, and would prohibit the association from publishing the list of owners 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 methods for time-share interest owners to communicate with the entire membership of the association through a written request to the association, if the association determines that the communication would advance legitimate association business, as

specified. The bill would also specify that certain provisions of the Nonprofit Mutual Benefit Corporation Law pertaining to the list of names, addresses, and voting rights of members of a nonprofit mutual benefit corporation do not apply to time-share associations under the Vacation Ownership and Time-share Act of 2004.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) In 2010, the court of appeal held that time-share association
4 membership lists containing personal information may be
5 distributed over the objection of many time-share owners.

6 (b) Time-share associations frequently have membership lists
7 in excess of 10,000 members.

8 (c) Membership lists on the open market are of substantial value,
9 particularly to unscrupulous parties that prey upon time-share
10 owners.

11 (d) Legislation is needed to protect the privacy of time-share
12 owners.

13 SEC. 2. Section 11273 of the Business and Professions Code
14 is amended to read:

15 11273. (a) The books of account, minutes of members and
16 governing body meetings, and all other records of the time-share
17 plan maintained by the association or the managing entity shall be
18 made available for inspection and copying by any member, or by
19 his or her duly appointed representative, at any reasonable time
20 for a purpose reasonably related to membership in the association.

21 (b) The records shall be made available for inspection at the
22 office where the records are maintained. Upon receipt of an
23 authenticated written request from a member along with the fee
24 prescribed by the governing body to defray the costs of
25 reproduction, the managing entity or other custodian of records of
26 the association or the time-share plan shall prepare and transmit
27 to the member a copy of any and all records requested.

28 (c) The governing body shall establish reasonable rules with
29 respect to all of the following:

1 (1) Notice to be given to the managing entity or other custodian
2 of the records by the member desiring to make the inspection or
3 to obtain copies.

4 (2) Hours and days of the week when a personal inspection of
5 the records may be made.

6 (3) Payment of the cost of reproducing copies of records
7 requested by a member.

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

12 (e) (1) The association shall maintain among its records a
13 complete list of the names and *mailing* addresses of all owners of
14 time-share interests in the time-share plan. The association shall
15 update this list no less frequently than every six months. ~~Unless~~
16 ~~otherwise provided in the time-share instruments, the~~
17 *Notwithstanding any other provision of this section, the association*
18 ~~may~~ shall not publish this owner's list of owners or provide a copy
19 of it to any time-share interest owner's owners or to any third party
20 or use or sell the list for commercial purposes.

21 (2) *If an owner of a time-share interest in the time-share plan*
22 *provides a written request to the association to communicate with*
23 *the membership of the association, the association shall, within*
24 *30 days of the date of the written request, determine whether the*
25 *communication would advance legitimate association business,*
26 *and shall provide a method of making the requested communication*
27 *without providing access to, or a copy of, the association*
28 *membership list to the requesting owner. The association shall*
29 *notify the requesting owner of its decision and may require payment*
30 *of the costs associated with making the communication, before*
31 *making the communication, and the requesting owner shall provide*
32 *payment, if required, to the association before the association*
33 *makes the communication. Any alternative method that*
34 *accomplishes the purpose set forth in a written request pursuant*
35 *to this paragraph shall be deemed a reasonable alternative. If the*
36 *association determines that a communication will not advance*
37 *legitimate association business, the association shall, within 30*
38 *days, notify the requesting owner in writing and shall indicate the*
39 *reasons for the rejection.*

1 (3) For the purposes of this section, “legitimate association
2 business” includes, but is not limited to, a proxy solicitation for
3 any purpose, including, but not limited to, the recall of one or more
4 of the board members elected by the owners, or the discharge of
5 a manager or management firm.
6 (4) Section 8330 of the Corporations Code shall not apply to
7 time-share associations under this chapter.
8 (f) For single site time-share plans and component sites of a
9 ~~multisite~~ *multiline* time-share plan located outside of the state, the
10 association shall be subject to the provisions set forth in this
11 section. The association must be in compliance with the applicable
12 laws of the state or jurisdiction in which the time-share property
13 or component site is located, and if a conflict exists between laws
14 of the situs state and the requirements set forth in this section, the
15 law of the situs state shall control. If the association and the
16 time-share instruments provide for the matters contained in this
17 section, the association shall be deemed to be in compliance with
18 the 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.