

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 884 Session of
2015

INTRODUCED BY BRIGGS, V. BROWN, ROZZI, FREEMAN, KINSEY,
WHEATLEY, THOMAS, PASHINSKI, MILLARD, YOUNGBLOOD, COHEN AND
D. COSTA, APRIL 8, 2015

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 8, 2015

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in protection of
3 cooperative interest purchasers, providing for special
4 protections for time shares.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 68 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 4407.1. Special protections for time shares.

10 (a) Variation by agreement.--Except as otherwise provided in
11 this chapter, the provisions of this chapter may not be varied
12 by agreement and rights conferred under this chapter may not be
13 waived. A declarant may not act under a power of attorney or use
14 any other device to evade the limitations or prohibitions of
15 this chapter or the declaration for a time share.

16 (b) Unconscionable contract.--

17 (1) If a court as a matter of law finds that any aspect
18 of a contract relating to the use or ownership of a time

1 share, any conduct directed against the purchaser by a party
2 to the contract or any result of the contract is
3 unconscionable, the court shall, in addition to the remedy
4 authorized in paragraph (4), either refuse to enforce the
5 contract against the purchaser or so limit the application of
6 any unconscionable aspect or conduct as to avoid any
7 unconscionable result.

8 (2) Without limiting the scope of paragraph (1), the
9 court may consider, among other things, any of the following
10 as pertinent to the issue of unconscionability:

11 (i) That those engaging in the practice know of the
12 inability of a party to receive benefits properly
13 anticipated from the time share and related goods or
14 services.

15 (ii) That there exists a gross disparity, at the
16 time of contracting, between the price of the time share
17 and related goods or services and their value as measured
18 by the price at which similar time shares or related
19 goods or services were readily obtainable or by other
20 tests of true value, except that a disparity between the
21 contract price and the value of the time share measured
22 by the price at which similar time shares were readily
23 obtainable in similar transactions does not, of itself,
24 render the contract unconscionable.

25 (iii) That the practice may enable one party to take
26 advantage of the inability of the other party reasonably
27 to protect the other party's interests by reason of
28 physical or mental infirmities, illiteracy or inability
29 to understand the language of the agreement, ignorance or
30 lack of education or similar factors.

1 (iv) That the terms of the contract require a party
2 to waive legal rights.

3 (v) That the terms of the contract require a party
4 to unreasonably jeopardize money or property beyond the
5 money or property immediately at issue in the
6 transaction.

7 (vi) That the natural effect of the practice would
8 reasonably cause or aid in causing a party to
9 misunderstand the true nature of the contract or the
10 party's rights and duties under the contract.

11 (vii) That the writing purporting to evidence the
12 obligation of the party under the contract contains terms
13 or provisions or authorizes practices prohibited by law.

14 (viii) Definitions of unconscionability in statutes,
15 rules, regulations, rulings and decisions of legislative,
16 administrative or judicial bodies.

17 (3) Any charge or practice expressly permitted by this
18 chapter shall not in itself be construed as unconscionable.
19 Even though a practice or charge is authorized by this
20 chapter, the totality of a party's conduct may show that the
21 practice or charge is part of an unconscionable course of
22 conduct.

23 (4) In addition to the protections afforded in paragraph
24 (1), a party shall be entitled upon a finding of
25 unconscionability to recover from the person responsible for
26 the unconscionable conduct a remedy in accordance with law.

27 (c) Contents of public offering statement.--A public
28 offering statement for a time share shall contain or fully and
29 accurately disclose all of the following in a cover sheet
30 bearing the title "Time-Share Disclosure Statement" and the name

and principal business address of the developer and the
developer's agent, if any, the name and location of the time-
share property and the following three statements in boldface
type or capital letters no smaller than the largest type on the
page:

1. THESE ARE THE LEGAL DOCUMENTS COVERING YOUR RIGHTS AND
RESPONSIBILITIES AS A TIME-SHARE OWNER. IF YOU DO NOT UNDERSTAND
ANY PROVISIONS CONTAINED IN THEM, YOU SHOULD OBTAIN PROFESSIONAL
ADVICE.

2. THESE DISCLOSURE MATERIALS GIVEN TO YOU AS REQUIRED BY
LAW MAY BE RELIED UPON AS CORRECT AND BINDING. ORAL STATEMENTS
MAY NOT BE LEGALLY BINDING.

3. YOU MAY CANCEL IN WRITING ANY CONTRACT FOR THE PURCHASE
OF A TIME SHARE, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN FIVE
BUSINESS DAYS FROM THE DATE YOU SIGN THE CONTRACT OR UNTIL FIVE
BUSINESS DAYS AFTER YOU RECEIVE THE TIME-SHARE DISCLOSURE
STATEMENT, WHICHEVER IS LATER. IF YOU SO CANCEL THE CONTRACT,
YOU ARE ENTITLED TO RECEIVE A FULL REFUND OF ANY DEPOSITS MADE,
EXCEPT, IF YOU HAVE USED OR OCCUPIED THE TIME-SHARE PROPERTY FOR
MORE THAN 12 HOURS, THE MANAGING ENTITY OR CAMPGROUND OPERATOR
MAY SUBTRACT FROM DEPOSITS MADE A REASONABLE CHARGE TO COVER THE
LENGTH OF STAY PLUS THE COST FOR DAMAGES TO THE TIME-SHARE
PROPERTY DIRECTLY ATTRIBUTABLE TO YOU OR ANY MEMBER OF YOUR
PARTY.

Section 2. This act shall take effect in 60 days.