



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3647 Amended by the House of Representatives on March 22, 2017
Author: Sandifer
Subject: Vacation Time Shares
Requestor: Senate Judiciary
RFA Analyst(s): Stein, Heineman, and Gardner
Impact Date: April 13, 2017

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	Undetermined	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill is not expected to have an expenditure impact on the General Fund, Federal Funds, or Other Funds for the Department of Labor, Licensing and Regulation, the Department of Consumer Affairs, or the Administrative Law Court because any additional investigation and analysis would be performed by existing staff.

The amount of Other Fund revenue that may be generated from civil fines is undetermined because the number of violations that may occur and the specific punishment that may be imposed cannot be estimated.

Explanation of Fiscal Impact

Amended by the House of Representatives on March 22, 2017

State Expenditure

This bill amends sections of the Code of Laws related to the sale of vacation time shares. The bill expands the definition of escrow agent to include a licensed South Carolina attorney, real estate broker, or title insurance agent in good standing. The bill adds definitions for resale vacation time sharing interest, resale service provider, vacation time sharing resale service, vacation time sharing association, and consumer vacation time sharing reseller.

Section 27-32-55, which specifies the fees which may and may not be charged by a resale service provider to a consumer reseller, is expanded to include guidelines and restrictions on contracts, escrow management and dispute resolution, unfair trade practices and consumer protection, and penalties for violations of specific provisions. This section, as amended, requires

a written contract between a consumer reseller and a time share resale service provider, specifying the information that must be provided by the service provider to the consumer reseller. The bill retains statutory language regarding the types of fees that may be charged to a consumer vacation time sharing reseller, and clarifies the role of the escrow agent and real estate commission in resolving escrow disbursement disputes. The bill requires full disclosure to time share buyers of all assessments and taxes due at the time of transfer of ownership and provides civil penalties for certain violations.

The bill as amended adds vacation time sharing associations, along with purchasers or lessees, as having a right to bring a private action to enforce the provisions of the chapter.

Although the Real Estate Commission is responsible for enforcing this chapter, the bill allows the Department of Consumer Affairs also to enforce Section 27-32-55 and impose penalties that include fines, warning notice of deficiency, cease and desist order, refund of fees, and civil penalties. A person aggrieved by the department's final administrative order may request a hearing before the Administrative Law Court.

The bill adds that vacation time sharing interests are subject to the protections of the Servicemembers Civil Relief Act (SCRA) which provides for the suspension or postponement of certain military service members' civil obligations while on active duty.

Department of Labor, Licensing and Regulation. This bill as amended requires escrow agents to notify the Real Estate Commission of any disputes involving monetary disbursements or other property held in escrow and authorizes the Commission to audit or examine escrow accounts in order to resolve disputes. The department reports that the additional responsibility to investigate disputes, and audit or examine escrow accounts could be conducted by existing staff. This bill would not have an expenditure impact on the General Fund, Federal Funds, or Other Funds.

Department of Consumer Affairs (DCA). The department indicates a minimal expenditure impact for vacation time share complaints fielded. Currently, DCA receives vacation time share complaints and engages in voluntary mediation of complaints that do not fall within the jurisdiction of the Department of Labor, Licensing, and Registration. DCA received 336 vacation time share related complaints from 2014-2016 and only four dealt with timeshare resale companies. DCA anticipates the number of vacation time share complaints received may increase due to the department's contact information being included in the consumer contract for services, however DCA does not anticipate the need for additional resources. Further, the bill's enforcement authority granted to DCA is voluntary as opposed to mandatory. If resources become an issue, the department would make the appropriate adjustments. This bill would have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

Administrative Law Court (ALC). The Administrative Law Court already has jurisdiction to hear cases from Consumer Affairs and the Department of Labor, Licensing and Regulation. This bill is not expected to significantly increase the number of cases brought before the ALC. This bill is anticipated to have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

State Revenue

The bill as amended makes a violation of the provisions regulating the resale of timeshare interests an unfair trade practice. The Unfair Trade Practices Act, in Section 39-5-110, allows the Attorney General to recover for the State a civil penalty of no more than \$5,000 for each willful use of an unfair trade practice. If a person violates the terms of an injunction on the use of an unfair trade practice, the Attorney General may recover for the State a civil penalty up to \$15,000 for each violation. These recoveries would be deposited into a special Litigation Recovery Account for appropriation by the General Assembly. However, because the number of violations of the bill's timeshare resale provisions and the specific fines that may be imposed cannot be estimated, the revenue impact of these civil penalties is undetermined.

The provisions of the bill may also be enforced by the Department of Labor, Licensing and Regulation's Real Estate Commission and by the Department of Consumer Affairs. These agencies may enforce the provisions by imposition of a monetary fine, among other measures. The revenue that may be generated from any fines cannot be determined because of the unpredictability of the number of violations that may occur and the specific punishment that may be imposed.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director