

§ 93A-42.1. Construction and validity of declarations adopted prior to the Timeshare Act.

(a) All provisions contained in timeshare declarations adopted and recorded at the appropriate register of deeds office prior to July 1, 1984, are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of timeshare declarations or bylaws adopted and recorded at the appropriate register of deeds office prior to July 1, 1984.

(c) Except as otherwise provided in the timeshare declaration, the board of directors of a timeshare project may, by an affirmative vote of two-thirds of the board, amend a provision within the timeshare declaration, provided that the provision to be changed meets all of the following criteria:

(1) The provision was adopted as part of the original timeshare declaration recorded prior to July 1, 1984.

(2) The provision either converts or provides a mechanism to convert ownership of timeshare units to tenancy in common.

(d) Title or interest in a timeshare project or unit is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the timeshare declaration to comply with this section. Whether a substantial failure to comply with this section impairs marketability shall be determined by the laws of this State relating to marketability.

(e) This section shall not otherwise impair the ability of the individual timeshare owner's right under the timeshare declaration, bylaws, or the laws of this State to vote to terminate the timeshare project or to amend the declaration to provide for the termination of the timeshare project and interests. (2014-99, s. 1; 2021-163, s. 1(c); 2021-192, s. 5(a).)