

§ 93A-64. Multisite timeshare program additions, substitutions, and deletions.

(a) With respect to addition of timeshare units, amenities, or timeshare projects to the multisite timeshare program, the timeshare declaration must provide for the following:

- (1) The basis upon which new timeshare units, amenities, or timeshare projects may be added, by whom additions may be made, and the fiscal impact, if any, of any additions on the owners.
- (2) The extent, if any, to which owners will have the right to consent to any proposed additions.
- (3) The person authorized to make additions during the term of the multisite timeshare program must comply with the one-to-one use right to use right ratio and the requirements of G.S. 93A-63 in ascertaining the desirability of the proposed addition and any impact of the proposed addition upon the demand for and availability of existing timeshare units, amenities, or timeshare projects.

(b) With respect to substitution of timeshare units, amenities, or timeshare projects for existing timeshare units, amenities, or timeshare projects in a multisite timeshare program, the timeshare declaration must provide for the following:

- (1) The basis upon which timeshare units, amenities, or timeshare projects may be substituted for existing timeshare units, amenities, or timeshare projects, by whom substitutions may be made, and the fiscal impact, if any, of any substitutions on the owners.
- (2) The replacement timeshare units, amenities, or timeshare projects must provide owners with an opportunity to enjoy a substantially similar or improved vacation experience as compared to the experience available at the replaced timeshare units, amenities, or timeshare projects. In determining whether the replacement timeshare units, amenities, or timeshare projects will provide a substantially similar or improved vacation experience, all relevant factors may be considered, including, but not limited to, some or all of the following: size; capacity; furnishings; maintenance; location, including geographic, topographic, and scenic considerations; demand and availability for owner use; and recreational capabilities.
- (3) If a timeshare owned by the owner in a multisite timeshare program is a timeshare estate in a specific timeshare unit, no substitution may be made of that timeshare unit without the approval of that owner and all other owners of timeshare estates in that timeshare unit.
- (4) If the timeshare declaration provides that the developer, acting unilaterally, or a managing entity under common ownership or control with the developer is the person who is authorized to make substitutions, the developer or managing entity may not substitute available timeshare units in the multisite timeshare program in a given calendar year pursuant to this subsection if the amount of the substituted timeshare units provides more than ten percent (10%) of the total annual use availability in the multisite timeshare program calculated in seven-day increments.
- (5) If the timeshare declaration provides that the managing entity is the person authorized to make substitutions, and the managing entity is not under common ownership or control with the developer, the managing entity may not substitute available timeshare units in the multisite timeshare program in a given calendar year pursuant to this subsection if the amount of the substituted timeshare units provides more than twenty-five percent (25%) of

the total annual use availability in the multisite timeshare program calculated in seven-day increments.

- (6) If the owners have the right to consent to any proposed substitutions, and the person authorized to make substitutions receives, within 21 days after the date of the notice of substitution required by this subsection, a written objection to the proposed substitution from at least ten percent (10%) of all owners in the multisite timeshare program, a meeting of the owners must be conducted by the managing entity within 30 days after the end of the 21-day period. The proposed substitution is ratified unless it is rejected by a majority of owners voting in person or by proxy at the meeting, provided that at least twenty-five percent (25%) of all owners cast votes.
- (7) The person authorized to make substitutions may make unlimited substitutions in a given year if a proposed substitution is approved in advance by a majority of owners of the multisite timeshare program voting in person or by proxy at a meeting called for that purpose, provided that at least twenty-five percent (25%) of the total number of owners cast votes.
- (8) The person authorized to make substitutions shall notify all owners of the multisite timeshare program in writing of the decision to make a substitution. This notice must meet all of the following requirements:
 - a. The notice must be given at least six months in advance of the date that the proposed substitution will occur.
 - b. The notice must state the last day after the end of the six-month period on which reservations will be accepted from owners for use of the existing timeshare units that will be replaced.
 - c. The notice must state that owners shall have 21 days after the date of the notice of substitution to file a written objection with the person authorized to make substitutions.
- (9) The person authorized to make substitutions may remove existing timeshare units for substitution only after those timeshare units have no pending purchaser use reservations.
- (10) The person authorized to make substitutions must comply with the one-to-one use night to use right ratio and the requirements of G.S. 93A-63 in ascertaining the desirability of the proposed substitution and its impact upon the demand for and availability of existing timeshare units, amenities, or timeshare projects.

(c) With respect to deletion of timeshare units, amenities, or timeshare projects, the timeshare declaration must provide for the following:

- (1) If the deletion is as a result of a casualty, the following apply:
 - a. The timeshare declaration must provide for casualty insurance for the timeshare units or amenities in an amount equal to the replacement cost of those timeshare units or amenities. The timeshare declaration must also provide that in the event of a casualty that results in timeshare units, amenities, or timeshare projects being unavailable for use by owners, the managing entity shall notify all affected owners of the unavailability of use within 30 days after the event of casualty.
 - b. The timeshare declaration must also provide for the application of any insurance proceeds arising from a casualty to either the replacement or acquisition of additional similar timeshare units or to the removal of owners from the multisite timeshare program so that owners will not

- be competing for available timeshare units or amenities on a greater than one-to-one use night to use right ratio.
- c. If the timeshare instrument does not provide for business income insurance, or if it is unavailable, or if the declaration permits the developer, the managing entity, or the owners to elect not to reconstruct after casualty under certain circumstances or to secure replacement timeshare units in lieu of reconstruction, owners may temporarily compete for available accommodations on a greater than one-to-one use night to use right ratio. The decision whether or not to reconstruct shall be made as promptly as possible under the circumstances.
 - d. Any replacement of timeshare units, amenities, or timeshare projects must comply with the one-to-one use night to use right ratio and the requirements of G.S. 93A-63 in ascertaining the desirability of the proposed addition and its impact upon the demand for and availability of existing timeshare units, amenities, or timeshare projects.
- (2) If the deletion is as a result of an eminent domain proceeding, the following apply:
- a. The timeshare declaration must provide for the application of any proceeds arising from a taking under eminent domain proceedings to either the replacement or acquisition of additional similar timeshare units or to the removal of owners so that owners will not be competing for available timeshare units on a greater than one-to-one use night to use right requirement ratio.
 - b. Any replacement of timeshare units, amenities, or timeshare projects must comply with the one-to-one use night to use right ratio and the requirements of G.S. 93A-63 in ascertaining the desirability of the proposed addition and its impact upon the demand for and availability of existing timeshare units, amenities, or timeshare projects.
- (3) The timeshare declaration may provide that timeshare units, amenities, or timeshare projects will be deleted upon the expiration of the term of their availability or as otherwise provided in the timeshare declaration. However, the timeshare declaration must also provide that if a timeshare unit is deleted in this manner, a sufficient number of owners will also be deleted, or a sufficient number of substitute timeshare units will be substituted for the deleted timeshare units, so as to maintain no greater than a one-to-one use night to use right ratio. (2021-163, s. 1(c); 2021-192, s. 5(a).)