

By the Committee on Regulated Industries; and Senator Stargel

580-02035-13

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1                                   A bill to be entitled  
2           An act relating to timeshares; amending s. 718.112,  
3           F.S.; specifying that certain provisions relating to  
4           condominium board elections do not apply to timeshare  
5           condominiums; amending s. 721.05, F.S.; revising the  
6           definition of "timeshare estate"; amending s. 721.07,  
7           F.S.; revising formula requirements for calculating  
8           reserves for accommodations and facilities of real  
9           property timeshare plans; amending s. 721.82, F.S.;  
10          revising definitions applicable to the Timeshare Lien  
11          Foreclosure Act; amending s. 721.84, F.S.; making an  
12          editorial change; amending s. 721.855, F.S.; revising  
13          procedure for the trustee foreclosure of assessment  
14          liens; revising conditions under which a trustee may  
15          sell a foreclosed encumbered timeshare interest;  
16          revising and providing notice requirements; providing  
17          for perfection of notice; providing requirements for a  
18          notice of lis pendens; providing sale requirements;  
19          providing exceptions for actions for failure to follow  
20          the trustee foreclosure procedure; amending s.  
21          721.856, F.S.; revising procedure for the trustee  
22          foreclosure of mortgage liens; revising conditions  
23          under which a trustee may sell a foreclosed encumbered  
24          timeshare interest; revising and providing notice  
25          requirements; providing for perfection of notice;  
26          providing requirements for a notice of lis pendens;  
27          providing sale requirements; providing exceptions for  
28          actions for failure to follow the trustee foreclosure  
29          procedure; providing an effective date.

580-02035-13

2013696c1

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners shall be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting shall be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term shall be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for

580-02035-13

2013696c1

59 reelection unless prohibited by the bylaws. If the bylaws permit  
60 staggered terms of no more than 2 years and upon approval of a  
61 majority of the total voting interests, the association board  
62 members may serve 2-year staggered terms. If the number of board  
63 members whose terms expire at the annual meeting equals or  
64 exceeds the number of candidates, the candidates become members  
65 of the board effective upon the adjournment of the annual  
66 meeting. Unless the bylaws provide otherwise, any remaining  
67 vacancies shall be filled by the affirmative vote of the  
68 majority of the directors making up the newly constituted board  
69 even if the directors constitute less than a quorum or there is  
70 only one director. In a condominium association of more than 10  
71 units or in a condominium association that does not include  
72 timeshare units or timeshare interests, coowners of a unit may  
73 not serve as members of the board of directors at the same time  
74 unless they own more than one unit or unless there are not  
75 enough eligible candidates to fill the vacancies on the board at  
76 the time of the vacancy. Any unit owner desiring to be a  
77 candidate for board membership must comply with sub-subparagraph  
78 4.a. and must be eligible to serve on the board of directors at  
79 the time of the deadline for submitting a notice of intent to  
80 run in order to have his or her name listed as a proper  
81 candidate on the ballot or to serve on the board. A person who  
82 has been suspended or removed by the division under this  
83 chapter, or who is delinquent in the payment of any fee, fine,  
84 or special or regular assessment as provided in paragraph (n),  
85 is not eligible for board membership. A person who has been  
86 convicted of any felony in this state or in a United States  
87 District or Territorial Court, or who has been convicted of any

580-02035-13

2013696c1

88 offense in another jurisdiction which would be considered a  
89 felony if committed in this state, is not eligible for board  
90 membership unless such felon's civil rights have been restored  
91 for at least 5 years as of the date such person seeks election  
92 to the board. The validity of an action by the board is not  
93 affected if it is later determined that a board member is  
94 ineligible for board membership due to having been convicted of  
95 a felony.

96 3. The bylaws must provide the method of calling meetings  
97 of unit owners, including annual meetings. Written notice must  
98 include an agenda, must be mailed, hand delivered, or  
99 electronically transmitted to each unit owner at least 14 days  
100 before the annual meeting, and must be posted in a conspicuous  
101 place on the condominium property at least 14 continuous days  
102 before the annual meeting. Upon notice to the unit owners, the  
103 board shall, by duly adopted rule, designate a specific location  
104 on the condominium property or association property where all  
105 notices of unit owner meetings shall be posted. This requirement  
106 does not apply if there is no condominium property or  
107 association property for posting notices. In lieu of, or in  
108 addition to, the physical posting of meeting notices, the  
109 association may, by reasonable rule, adopt a procedure for  
110 conspicuously posting and repeatedly broadcasting the notice and  
111 the agenda on a closed-circuit cable television system serving  
112 the condominium association. However, if broadcast notice is  
113 used, the notice and agenda must be broadcast at least four  
114 times every broadcast hour of each day that a posted notice is  
115 otherwise required under this section. If broadcast notice is  
116 provided, the notice and agenda must be broadcast in a manner

580-02035-13

2013696c1

117 and for a sufficient continuous length of time so as to allow an  
118 average reader to observe the notice and read and comprehend the  
119 entire content of the notice and the agenda. Unless a unit owner  
120 waives in writing the right to receive notice of the annual  
121 meeting, such notice must be hand delivered, mailed, or  
122 electronically transmitted to each unit owner. Notice for  
123 meetings and notice for all other purposes must be mailed to  
124 each unit owner at the address last furnished to the association  
125 by the unit owner, or hand delivered to each unit owner.  
126 However, if a unit is owned by more than one person, the  
127 association must provide notice to the address that the  
128 developer identifies for that purpose and thereafter as one or  
129 more of the owners of the unit advise the association in  
130 writing, or if no address is given or the owners of the unit do  
131 not agree, to the address provided on the deed of record. An  
132 officer of the association, or the manager or other person  
133 providing notice of the association meeting, must provide an  
134 affidavit or United States Postal Service certificate of  
135 mailing, to be included in the official records of the  
136 association affirming that the notice was mailed or hand  
137 delivered in accordance with this provision.

138 4. The members of the board shall be elected by written  
139 ballot or voting machine. Proxies may not be used in electing  
140 the board in general elections or elections to fill vacancies  
141 caused by recall, resignation, or otherwise, unless otherwise  
142 provided in this chapter. This subparagraph does not apply to an  
143 association governing a timeshare condominium.

144 a. At least 60 days before a scheduled election, the  
145 association shall mail, deliver, or electronically transmit, by

580-02035-13

2013696c1

146 separate association mailing or included in another association  
147 mailing, delivery, or transmission, including regularly  
148 published newsletters, to each unit owner entitled to a vote, a  
149 first notice of the date of the election. Any unit owner or  
150 other eligible person desiring to be a candidate for the board  
151 must give written notice of his or her intent to be a candidate  
152 to the association at least 40 days before a scheduled election.  
153 Together with the written notice and agenda as set forth in  
154 subparagraph 3., the association shall mail, deliver, or  
155 electronically transmit a second notice of the election to all  
156 unit owners entitled to vote, together with a ballot that lists  
157 all candidates. Upon request of a candidate, an information  
158 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
159 furnished by the candidate at least 35 days before the election,  
160 must be included with the mailing, delivery, or transmission of  
161 the ballot, with the costs of mailing, delivery, or electronic  
162 transmission and copying to be borne by the association. The  
163 association is not liable for the contents of the information  
164 sheets prepared by the candidates. In order to reduce costs, the  
165 association may print or duplicate the information sheets on  
166 both sides of the paper. The division shall by rule establish  
167 voting procedures consistent with this sub-subparagraph,  
168 including rules establishing procedures for giving notice by  
169 electronic transmission and rules providing for the secrecy of  
170 ballots. Elections shall be decided by a plurality of ballots  
171 cast. There is no quorum requirement; however, at least 20  
172 percent of the eligible voters must cast a ballot in order to  
173 have a valid election. A unit owner may not permit any other  
174 person to vote his or her ballot, and any ballots improperly

580-02035-13

2013696c1

175 cast are invalid. A unit owner who violates this provision may  
176 be fined by the association in accordance with s. 718.303. A  
177 unit owner who needs assistance in casting the ballot for the  
178 reasons stated in s. 101.051 may obtain such assistance. The  
179 regular election must occur on the date of the annual meeting.  
180 Notwithstanding this sub-subparagraph, an election is not  
181 required unless more candidates file notices of intent to run or  
182 are nominated than board vacancies exist.

183       b. Within 90 days after being elected or appointed to the  
184 board, each newly elected or appointed director shall certify in  
185 writing to the secretary of the association that he or she has  
186 read the association's declaration of condominium, articles of  
187 incorporation, bylaws, and current written policies; that he or  
188 she will work to uphold such documents and policies to the best  
189 of his or her ability; and that he or she will faithfully  
190 discharge his or her fiduciary responsibility to the  
191 association's members. In lieu of this written certification,  
192 within 90 days after being elected or appointed to the board,  
193 the newly elected or appointed director may submit a certificate  
194 of having satisfactorily completed the educational curriculum  
195 administered by a division-approved condominium education  
196 provider within 1 year before or 90 days after the date of  
197 election or appointment. The written certification or  
198 educational certificate is valid and does not have to be  
199 resubmitted as long as the director serves on the board without  
200 interruption. A director who fails to timely file the written  
201 certification or educational certificate is suspended from  
202 service on the board until he or she complies with this sub-  
203 subparagraph. The board may temporarily fill the vacancy during

580-02035-13

2013696c1

204 the period of suspension. The secretary shall cause the  
205 association to retain a director's written certification or  
206 educational certificate for inspection by the members for 5  
207 years after a director's election. Failure to have such written  
208 certification or educational certificate on file does not affect  
209 the validity of any board action.

210 5. Any approval by unit owners called for by this chapter  
211 or the applicable declaration or bylaws, including, but not  
212 limited to, the approval requirement in s. 718.111(8), must be  
213 made at a duly noticed meeting of unit owners and is subject to  
214 all requirements of this chapter or the applicable condominium  
215 documents relating to unit owner decisionmaking, except that  
216 unit owners may take action by written agreement, without  
217 meetings, on matters for which action by written agreement  
218 without meetings is expressly allowed by the applicable bylaws  
219 or declaration or any law that provides for such action.

220 6. Unit owners may waive notice of specific meetings if  
221 allowed by the applicable bylaws or declaration or any law. If  
222 authorized by the bylaws, notice of meetings of the board of  
223 administration, unit owner meetings, except unit owner meetings  
224 called to recall board members under paragraph (j), and  
225 committee meetings may be given by electronic transmission to  
226 unit owners who consent to receive notice by electronic  
227 transmission.

228 7. Unit owners have the right to participate in meetings of  
229 unit owners with reference to all designated agenda items.  
230 However, the association may adopt reasonable rules governing  
231 the frequency, duration, and manner of unit owner participation.

232 8. A unit owner may tape record or videotape a meeting of



580-02035-13

2013696c1

233 the unit owners subject to reasonable rules adopted by the  
234 division.

235 9. Unless otherwise provided in the bylaws, any vacancy  
236 occurring on the board before the expiration of a term may be  
237 filled by the affirmative vote of the majority of the remaining  
238 directors, even if the remaining directors constitute less than  
239 a quorum, or by the sole remaining director. In the alternative,  
240 a board may hold an election to fill the vacancy, in which case  
241 the election procedures must conform to sub-subparagraph 4.a.  
242 unless the association governs 10 units or fewer and has opted  
243 out of the statutory election process, in which case the bylaws  
244 of the association control. Unless otherwise provided in the  
245 bylaws, a board member appointed or elected under this section  
246 shall fill the vacancy for the unexpired term of the seat being  
247 filled. Filling vacancies created by recall is governed by  
248 paragraph (j) and rules adopted by the division.

249 10. This chapter does not limit the use of general or  
250 limited proxies, require the use of general or limited proxies,  
251 or require the use of a written ballot or voting machine for any  
252 agenda item or election at any meeting of a timeshare  
253 condominium association.

254  
255 Notwithstanding subparagraph (b)2. and sub-subparagraph  
256 4.a., an association of 10 or fewer units may, by affirmative  
257 vote of a majority of the total voting interests, provide for  
258 different voting and election procedures in its bylaws, which  
259 may be by a proxy specifically delineating the different voting  
260 and election procedures. The different voting and election  
261 procedures may provide for elections to be conducted by limited

580-02035-13

2013696c1

262 or general proxy.

263 Section 2. Subsection (34) of section 721.05, Florida  
264 Statutes, is amended to read:

265 721.05 Definitions.—As used in this chapter, the term:

266 (34) "Timeshare estate" means a right to occupy a timeshare  
267 unit, coupled with a freehold estate or an estate for years with  
268 a future interest in a timeshare property or a specified portion  
269 thereof. The term includes ~~shall also mean~~ an interest in a  
270 condominium unit pursuant to s. 718.103, an interest in a  
271 cooperative unit pursuant to s. 719.103, or a direct or indirect  
272 ~~an~~ interest in a trust that complies in all respects with the  
273 provisions of s. 721.08(2)(c)4., provided that the trust does  
274 not contain any personal property timeshare interests. A  
275 timeshare estate is a parcel of real property under the laws of  
276 this state.

277 Section 3. Paragraph (t) of subsection (5) of section  
278 721.07, Florida Statutes, is amended to read:

279 721.07 Public offering statement.—Prior to offering any  
280 timeshare plan, the developer must submit a filed public  
281 offering statement to the division for approval as prescribed by  
282 s. 721.03, s. 721.55, or this section. Until the division  
283 approves such filing, any contract regarding the sale of that  
284 timeshare plan is subject to cancellation by the purchaser  
285 pursuant to s. 721.10.

286 (5) Every filed public offering statement for a timeshare  
287 plan which is not a multisite timeshare plan shall contain the  
288 information required by this subsection. The division is  
289 authorized to provide by rule the method by which a developer  
290 must provide such information to the division.

580-02035-13

2013696c1

291 (t) An estimated operating budget for the timeshare plan  
292 and a schedule of the purchaser's expenses shall be attached as  
293 an exhibit and shall contain the following information:

294 1. The estimated annual expenses of the timeshare plan  
295 collectible from purchasers by assessments. The estimated  
296 payments by the purchaser for assessments shall also be stated  
297 in the estimated amounts for the times when they will be due.  
298 Expenses shall also be shown for the shortest timeshare period  
299 offered for sale by the developer. If the timeshare plan  
300 provides for the offer and sale of units to be used on a  
301 nontimeshare basis, the estimated monthly and annual expenses of  
302 such units shall be set forth in a separate schedule.

303 2. The estimated weekly, monthly, and annual expenses of  
304 the purchaser of each timeshare interest, other than assessments  
305 payable to the managing entity. Expenses which are personal to  
306 purchasers that are not uniformly incurred by all purchasers or  
307 that are not provided for or contemplated by the timeshare plan  
308 documents may be excluded from this estimate.

309 3. The estimated items of expenses of the timeshare plan  
310 and the managing entity, except as excluded under subparagraph  
311 2., including, but not limited to, if applicable, the following  
312 items, which shall be stated either as management expenses  
313 collectible by assessments or as expenses of the purchaser  
314 payable to persons other than the managing entity:

315 a. Expenses for the managing entity:

316 (I) Administration of the managing entity.

317 (II) Management fees.

318 (III) Maintenance.

319 (IV) Rent for facilities.

580-02035-13

2013696c1

320 (V) Taxes upon timeshare property.

321 (VI) Taxes upon leased areas.

322 (VII) Insurance.

323 (VIII) Security provisions.

324 (IX) Other expenses.

325 (X) Operating capital.

326 (XI) Reserves for deferred maintenance and reserves for

327 capital expenditures, including:

328 (A) Reserves for deferred maintenance or capital

329 expenditures of accommodations and facilities of a real property

330 timeshare plan, if any. All reserves for any accommodations and

331 facilities of real property timeshare plans located in this

332 state shall be calculated using ~~by~~ a formula ~~which is~~ based upon

333 estimated life and replacement cost of each reserve item that

334 will provide funds equal to the total estimated deferred

335 maintenance expense or total estimated life and replacement cost

336 for an asset or group of assets over the remaining useful life

337 of the asset or group of assets. Funding formulas for reserves

338 shall be based on either a separate analysis of each of the

339 required assets using the straight-line accounting method or a

340 pooled analysis of two or more of the required assets using the

341 pooling accounting method. Reserves for deferred maintenance for

342 such accommodations and facilities shall include accounts for

343 roof replacement, building painting, pavement resurfacing,

344 replacement of timeshare unit furnishings and equipment, and any

345 other component, the useful life of which is less than the

346 useful life of the overall structure. For any accommodations and

347 facilities of real property timeshare plans located outside of

348 this state, the developer shall disclose the amount of reserves

580-02035-13

2013696c1

349 for deferred maintenance or capital expenditures required by the  
350 law of the situs state, if applicable, and maintained for such  
351 accommodations and facilities.

352 (B) Reserves for deferred maintenance or capital  
353 expenditures of accommodations and facilities of a personal  
354 property timeshare plan, if any. If such reserves are  
355 maintained, the estimated operating budget shall disclose the  
356 methodology of how the reserves are calculated. If a personal  
357 property timeshare plan does not require reserves, the following  
358 statement, in conspicuous type, shall appear in both the budget  
359 and the public offering statement:

360  
361 *The estimated operating budget for this personal property*  
362 *timeshare plan does not include reserves for deferred*  
363 *maintenance or capital expenditures; each timeshare interest may*  
364 *be subject to substantial special assessments from time to time*  
365 *because no such reserves exist.*

366  
367 (XII) Fees payable to the division.

368 b. Expenses for a purchaser:

369 (I) Rent for the timeshare unit, if subject to a lease.

370 (II) Rent payable by the purchaser directly to the lessor  
371 or agent under any lease for the use of facilities, which use  
372 and payment is a mandatory condition of ownership and is not  
373 included in the common expenses or assessments for common  
374 maintenance paid by the purchasers to the managing entity.

375 4. The estimated amounts shall be stated for a period of at  
376 least 12 months and may distinguish between the period before  
377 ~~prior to~~ the time that purchasers elect a majority of the board

580-02035-13

2013696c1

378 of administration and the period after that date.

379 5. If the developer intends to guarantee the level of  
380 assessments, such guarantee must be based upon a good faith  
381 estimate of the revenues and expenses of the timeshare plan. The  
382 guarantee must include a description of the following:

383 a. The specific time period measured in one or more  
384 calendar or fiscal years during which the guarantee will be in  
385 effect.

386 b. A statement that the developer will pay all common  
387 expenses incurred in excess of the total revenues of the  
388 timeshare plan pursuant to s. 721.15(2) if the developer has  
389 excused himself or herself from the payment of assessments  
390 during the guarantee period.

391 c. The level, expressed in total dollars, at which the  
392 developer guarantees the budget. If the developer has reserved  
393 the right to extend or increase the guarantee level pursuant to  
394 s. 721.15(2), a disclosure must be included to that effect.

395 6. If the developer intends to provide a trust fund to  
396 defer or reduce the payment of annual assessments, a copy of the  
397 trust instrument shall be attached as an exhibit and shall  
398 include a description of such arrangement, including, but not  
399 limited to:

400 a. The specific amount of such trust funds and the source  
401 of the funds.

402 b. The name and address of the trustee.

403 c. The investment methods permitted by the trust agreement.

404 d. A statement in conspicuous type that the funds from the  
405 trust account may not cover all assessments and that there is no  
406 guarantee that purchasers will not have to pay assessments in

580-02035-13

2013696c1

407 the future.

408         7. The budget of a phase timeshare plan may contain a note  
409 identifying the number of timeshare interests covered by the  
410 budget, indicating the number of timeshare interests, if any,  
411 estimated to be declared as part of the timeshare plan during  
412 that calendar year, and projecting the common expenses for the  
413 timeshare plan based upon the number of timeshare interests  
414 estimated to be declared as part of the timeshare plan during  
415 that calendar year.

416         Section 4. Subsections (9) and (11) of section 721.82,  
417 Florida Statutes, are amended to read:

418         721.82 Definitions.—As used in this part, the term:

419         (9) "Notice address" means:

420             (a) As to an assessment lien, the address of the owner of a  
421 timeshare interest as reflected by the books and records of the  
422 timeshare plan under ss. 721.13(4) and 721.15(7).

423             (b) As to a mortgage lien:

424                 1. The address of the mortgagor as set forth in the  
425 mortgage, the promissory note or a separate document executed by  
426 the mortgagor at the time the mortgage lien was created, or the  
427 most current address of the mortgagor according to the records  
428 of the mortgagee; and

429                 2. If the owner of the timeshare interest is different from  
430 the mortgagor, the address of the owner of the timeshare  
431 interest as reflected by the books and records of the mortgagee.

432             (c) As to a junior interestholder, the address as set forth  
433 in the recorded instrument creating the junior lien or interest,  
434 or in any recorded amendment thereto changing the address, or in  
435 any written notification by the junior interestholder to the

580-02035-13

2013696c1

436 foreclosing lienholder changing the address.

437 (d) As to an owner of a timeshare interest, mortgagor, or  
438 junior interestholder whose current address is not the address  
439 as determined by paragraph (a), paragraph (b), or paragraph (c),  
440 such address as is known to be the current address.

441 (11) "Permitted delivery service" means any nationally  
442 recognized common carrier delivery service, ~~or~~ international  
443 airmail service that allows for return receipt service, or a  
444 service recognized by an international jurisdiction as the  
445 equivalent of certified, registered mail for that jurisdiction.

446 Section 5. Subsection (6) of section 721.84, Florida  
447 Statutes, is amended to read:

448 721.84 Appointment of a registered agent; duties.—

449 (6) Unless otherwise provided in this section, a registered  
450 agent in receipt of any notice or other document addressed from  
451 the lienholder to the obligor in care of the registered agent at  
452 the registered office must mail, by first-class ~~first-class~~ mail  
453 if the obligor's address is within the United States, and by  
454 international air mail if the obligor's address is outside the  
455 United States, with postage fees prepaid, such notice or  
456 documents to the obligor at the obligor's last designated  
457 address within 5 days after receipt.

458 Section 6. Paragraph (c) of subsection (2), subsections (4)  
459 and (5), paragraph (c) of subsection (6), paragraph (b) of  
460 subsection (7), and paragraph (b) of subsection (14) of section  
461 721.855, Florida Statutes, are amended to read:

462 721.855 Procedure for the trustee foreclosure of assessment  
463 liens.—The provisions of this section establish a trustee  
464 foreclosure procedure for assessment liens.



580-02035-13

2013696c1

465 (2) INITIATING THE USE OF A TRUSTEE FORECLOSURE PROCEDURE.—

466 (c)1. In order to initiate a trustee foreclosure procedure  
467 against a timeshare interest, the lienholder shall deliver an  
468 affidavit to the trustee that identifies the obligor; the notice  
469 address of the obligor; the timeshare interest; the date that  
470 the notice of the intent to file a lien was given, if  
471 applicable; the official records book and page number where the  
472 claim of lien is recorded; and the name and notice address of  
473 any junior interestholder. ~~The affidavit shall be accompanied by  
474 a title search of the timeshare interest identifying any junior  
475 interestholders of record, and the effective date of the title  
476 search must be a date that is within 60 calendar days before the  
477 date of the affidavit.~~

478 2. The affidavit shall also state the facts that establish  
479 that the obligor has defaulted in the obligation to make a  
480 payment under a specified provision of the timeshare instrument  
481 or applicable law.

482 3. The affidavit shall also specify the amounts secured by  
483 the lien as of the date of the affidavit and a per diem amount  
484 to account for further accrual of the amounts secured by the  
485 lien.

486 4. The affidavit shall also state that the assessment lien  
487 was properly created and authorized pursuant to the timeshare  
488 instrument and applicable law.

489 (4) CONDITIONS TO TRUSTEE'S EXERCISE OF POWER OF SALE.—A  
490 trustee may sell an encumbered timeshare interest foreclosed  
491 under this section if:

492 (a) The trustee has received the affidavit from the  
493 lienholder under paragraph (2) (c);

580-02035-13

2013696c1

494 (b) The trustee has not received a written objection to the  
495 use of the trustee foreclosure procedure under paragraph (3) (a)  
496 and the timeshare interest was not redeemed under paragraph  
497 (3) (b);

498 (c) There is no lis pendens recorded and pending against  
499 the same timeshare interest before the recording of the notice  
500 of lis pendens pursuant to paragraph (5) (h), and the trustee has  
501 not been served notice of the filing of any action to enjoin the  
502 trustee foreclosure sale;

503 (d) The trustee has provided written notice of default and  
504 intent to foreclose as required under subsection (5) and a  
505 period of at least 30 calendar days has elapsed after such  
506 notice is deemed perfected under subsection (5); ~~and~~

507 (e) The notice of sale required under subsection (6) has  
508 been recorded in the official records of the county or counties  
509 in which the timeshare interest is located; and

510 (f) The lienholder has provided the trustee with a title  
511 search of the timeshare interest identifying any junior  
512 interestholders of record, the effective date of which search  
513 must be within 60 calendar days before the date it is delivered  
514 to the trustee. If a title search reveals that incorrect  
515 obligors or junior interestholders have been served or  
516 additional obligors or junior interestholders have not been  
517 served, the foreclosure action may not proceed until the notices  
518 required pursuant to this section have been served on the  
519 correct or additional obligors or junior interestholders and all  
520 applicable time periods have expired.

521 (5) NOTICE OF DEFAULT AND INTENT TO FORECLOSE.—

522 (a) In any foreclosure proceeding under this section, the

580-02035-13

2013696c1

523 trustee is required to notify the obligor of the proceeding by  
524 sending the obligor a written notice of default and intent to  
525 foreclose to the notice address of the obligor by certified  
526 mail, registered mail, or permitted delivery service, return  
527 receipt requested, and by first-class mail ~~or permitted delivery~~  
528 ~~service~~, postage prepaid, as follows:

529       1. The notice of default and intent to foreclose shall  
530 identify the obligor, the notice address of the obligor, the  
531 legal description of the timeshare interest, the nature of the  
532 default, the amounts secured by the lien, and a per diem amount  
533 to account for further accrual of the amounts secured by the  
534 lien and shall state the method by which the obligor may cure  
535 the default, including the period of time after the date of the  
536 notice of default and intent to foreclose within which the  
537 obligor may cure the default.

538       2. The notice of default and intent to foreclose shall  
539 include an objection form with which the obligor can object to  
540 the use of the trustee foreclosure procedure by signing and  
541 returning the objection form to the trustee. The objection form  
542 shall identify the obligor, the notice address of the obligor,  
543 the timeshare interest, and the return address of the trustee  
544 and shall state: "*The undersigned obligor exercises the*  
545 *obligor's right to object to the use of the trustee foreclosure*  
546 *procedure contained in section 721.855, Florida Statutes.*"

547       3. The notice of default and intent to foreclose shall also  
548 contain a statement in substantially the following form:

549  
550       *If you fail to cure the default as set forth in this*  
551       *notice or take other appropriate action with regard to*

580-02035-13

2013696c1

552        *this foreclosure matter, you risk losing ownership of*  
553        *your timeshare interest through the trustee*  
554        *foreclosure procedure established in section 721.855,*  
555        *Florida Statutes. You may choose to sign and send to*  
556        *the trustee the enclosed objection form, exercising*  
557        *your right to object to the use of the trustee*  
558        *foreclosure procedure. Upon the trustee's receipt of*  
559        *your signed objection form, the foreclosure of the*  
560        *lien with respect to the default specified in this*  
561        *notice shall be subject to the judicial foreclosure*  
562        *procedure only. You have the right to cure your*  
563        *default in the manner set forth in this notice at any*  
564        *time before the trustee's sale of your timeshare*  
565        *interest. If you do not object to the use of the*  
566        *trustee foreclosure procedure, you will not be subject*  
567        *to a deficiency judgment even if the proceeds from the*  
568        *sale of your timeshare interest are insufficient to*  
569        *offset the amounts secured by the lien.*

570        4. The trustee shall also mail a copy of the notice of  
571        default and intent to foreclose, without the objection form, to  
572        the notice address of any junior interestholder by certified  
573        mail, registered mail, or permitted delivery service, return  
574        receipt requested, and by first-class mail ~~or permitted delivery~~  
575        ~~service~~, postage prepaid.

576        5. Notice under this paragraph is considered perfected upon  
577        the trustee receiving the return receipt bearing the signature  
578        of the obligor or junior interestholder, as applicable, within  
579        30 calendar days after the trustee sent the notice under this  
580        paragraph. Notice under this paragraph is not perfected if:

580-02035-13

2013696c1

581        a. The notice is returned as undeliverable within 30  
582 calendar days after the trustee sent the notice;~~if~~

583        b. The trustee cannot, in good faith, ascertain ~~from the~~  
584 ~~receipt~~ that the obligor or junior interestholder, as  
585 applicable, is the person who signed the receipt because all or  
586 a portion of the obligor's or junior interestholder's name is  
587 not on the signed receipt or because the trustee cannot  
588 otherwise determine that the obligor or junior interestholder  
589 signed the receipt; or

590        c. ~~if~~ The receipt from the obligor or junior  
591 interestholder, as applicable, is returned or refused within 30  
592 calendar days after the trustee sent the notice.

593        (b) If the notice required by paragraph (a) is returned as  
594 undeliverable within 30 calendar days after the trustee sent the  
595 notice, the trustee shall perform a diligent search and inquiry  
596 to obtain a different address for the obligor or junior  
597 interestholder. For purposes of this paragraph, any address  
598 known and used by the lienholder for sending regular mailings or  
599 other communications from the lienholder to the obligor or  
600 junior interestholder, as applicable, shall be included with  
601 other addresses produced from the diligent search and inquiry,  
602 if any.

603        1. If the trustee's diligent search and inquiry produces an  
604 address different from the notice address, the trustee shall  
605 mail a copy of the notice by certified mail, registered mail, or  
606 permitted delivery service, return receipt requested, and by  
607 first-class mail ~~or permitted delivery service,~~ postage prepaid,  
608 to the new address. Notice under this subparagraph is considered  
609 perfected upon the trustee receiving the return receipt bearing

580-02035-13

2013696c1

610 the signature of the obligor or junior interestholder, as  
611 applicable, within 30 calendar days after the trustee sent the  
612 notice under this subparagraph. Notice under this subparagraph  
613 is not perfected if the receipt from the obligor or junior  
614 interestholder, as applicable, is refused, returned, or the  
615 trustee cannot, in good faith, ascertain ~~from the receipt~~ that  
616 the obligor or junior interestholder, as applicable, is the  
617 person who signed the receipt because all or a portion of the  
618 obligor's or junior interestholder's name is not on the signed  
619 receipt or because the trustee cannot otherwise determine that  
620 the obligor or junior interestholder signed the receipt ~~or the~~  
621 receipt from the obligor or junior interestholder, as  
622 applicable, is returned refused. If the trustee does not perfect  
623 notice under this subparagraph, the trustee shall perfect  
624 service in the manner set forth in paragraph (c).

625 2. If the trustee's diligent search and inquiry does not  
626 locate a different address for the obligor or junior  
627 interestholder, as applicable, the trustee may perfect notice  
628 against that person under paragraph (c).

629 (c) If the notice is not perfected under subparagraph  
630 (a)5., and such notice was not returned as undeliverable, or if  
631 the notice was not perfected under subparagraph (b)1., the  
632 trustee may perfect notice by publication in a newspaper of  
633 general circulation in the county or counties in which the  
634 timeshare interest is located. The notice shall appear at least  
635 once a week for 2 consecutive weeks. The notice of default and  
636 intent to foreclose perfected by publication shall identify the  
637 obligor, the notice address of the obligor, the legal  
638 description of the timeshare interest, the nature of the action

580-02035-13

2013696c1

639 in short and simple terms, the name and contact information of  
640 the trustee, and the period of time after the date of the notice  
641 of default and intent to foreclose within which the obligor may  
642 cure the default. The trustee may group an unlimited number of  
643 notices in the same publication, if all of the notices pertain  
644 to the same timeshare plan. Notice under this paragraph is  
645 considered perfected upon publication as required in this  
646 paragraph.

647 (d) If notice is perfected under subparagraph (a)5., the  
648 trustee shall execute an affidavit in recordable form setting  
649 forth the manner in which notice was perfected and attach the  
650 affidavit to the certificate of compliance set forth in  
651 subsection (9). The affidavit shall state the nature of the  
652 notice, the date on which the notice was mailed, the name and  
653 address on the envelope containing the notice, the manner in  
654 which the notice was mailed, and the basis for that knowledge.

655 (e) If notice is perfected under subparagraph (b)1., the  
656 trustee shall execute an affidavit in recordable form setting  
657 forth the manner in which notice was perfected and attach the  
658 affidavit to the certificate of compliance set forth in  
659 subsection (9). The affidavit shall state the nature of the  
660 notice, the dates on which the notice was mailed, the name and  
661 addresses on the envelopes containing the notice, the manner in  
662 which the notices were mailed, and the fact that a signed  
663 receipt from the certified mail, registered mail, or permitted  
664 delivery service was timely received, ~~and the name and address~~  
665 ~~on the envelopes containing the notice.~~

666 (f) If notice is perfected by publication under paragraph  
667 (c), the trustee shall execute an affidavit in recordable form

580-02035-13

2013696c1

668 setting forth the manner in which notice was perfected and  
669 attach the affidavit to the certificate of compliance set forth  
670 in subsection (9). The affidavit shall include all the  
671 information contained in either paragraph (d) or paragraph (e),  
672 as applicable, shall state that the notice was perfected by  
673 publication and shall state that ~~after~~ diligent search and  
674 inquiry was made for the current address for the person, if  
675 paragraph (b) applies. The affidavit ~~and~~ shall also include a  
676 ~~statement that notice was perfected by publication, and shall~~  
677 ~~set forth~~ the information required, as applicable, by s. 49.041  
678 in the case of a natural person or s. 49.051 in the case of a  
679 corporation, ~~whichever is applicable~~. No other action of the  
680 trustee is necessary to perfect notice.

681 (g) Notice under paragraph (a) or paragraph (b) is  
682 perfected as to all obligors who have the same address if notice  
683 is perfected as to at least one obligor at that address pursuant  
684 to the provisions of this subsection.

685 (h) The initiation of a trustee foreclosure action operates  
686 as a lis pendens on the timeshare interest pursuant to s. 48.23  
687 if a notice of lis pendens is recorded in the official records  
688 of the county in which the deed conveying the timeshare interest  
689 to the obligor was recorded and such notice has not expired  
690 pursuant to s. 48.23(2) or been withdrawn or discharged. The  
691 notice of lis pendens must contain the following:

- 692 1. The name of the obligor.  
693 2. The date of the initiation of the trustee foreclosure  
694 action, which date shall be the date of the sending of the  
695 notice of default and intent to foreclose to the obligor.  
696 3. The name and contact information of the trustee.



580-02035-13

2013696c1

697       4. The legal description of the timeshare interest.

698       5. A statement that a trustee foreclosure action has been  
699 initiated against the timeshare interest pursuant to this  
700 section.

701       (6) NOTICE OF SALE.—

702       (c) After the date of recording of the notice of sale,  
703 notice is not required to be given to any person claiming an  
704 interest in the timeshare interest except as provided in this  
705 section. If a notice of lis pendens has not previously been  
706 recorded pursuant to paragraph (5) (h), the recording of the  
707 notice of sale has the same force and effect as the filing of a  
708 lis pendens in a judicial proceeding under s. 48.23.

709       (7) MANNER OF SALE.—

710       (b) The trustee shall conduct the sale and act as the  
711 auctioneer. The trustee may use a third party to conduct the  
712 sale on behalf of the trustee and the trustee is liable for the  
713 conduct of the sale and the actions of the third party with  
714 respect to the conduct of the sale.

715       (14) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE  
716 PROCEDURE.—

717       (b) Any trustee who intentionally violates the provisions  
718 of this section concerning the trustee foreclosure procedure  
719 commits a felony of the third degree, punishable as provided in  
720 s. 775.082, s. 775.083, or s. 775.084. A trustee who incorrectly  
721 ascertains that the obligor signed the return receipt as  
722 required in s. 721.855(5) does not violate this section if the  
723 trustee made a good faith effort to properly ascertain that the  
724 obligor signed the return receipt in accordance with subsection  
725 (5).

580-02035-13

2013696c1

726 Section 7. Paragraph (b) of subsection (2), subsections (4)  
727 and (5), paragraphs (c) and (d) of subsection (6), paragraph (b)  
728 of subsection (7), and paragraph (b) of subsection (13) of  
729 section 721.856, Florida Statutes, are amended to read:

730 721.856 Procedure for the trustee foreclosure of mortgage  
731 liens.—The provisions of this section establish a trustee  
732 foreclosure procedure for mortgage liens.

733 (2) INITIATING THE TRUSTEE FORECLOSURE OF MORTGAGE LIENS.—

734 (b)1. In order to initiate a trustee foreclosure procedure  
735 against a timeshare interest, the lienholder shall deliver an  
736 affidavit to the trustee that identifies the obligor, the notice  
737 address of the obligor, the timeshare interest, the official  
738 records book and page number where the mortgage is recorded, and  
739 the name and notice address of any junior interestholder. ~~The~~  
740 ~~affidavit shall be accompanied by a title search of the~~  
741 ~~timeshare interest identifying any junior interestholders of~~  
742 ~~record, and the effective date of the title search must be a~~  
743 ~~date that is within 60 calendar days before the date of the~~  
744 ~~affidavit.~~

745 2. The affidavit shall also state the facts that establish  
746 that the obligor has defaulted in the obligation to make a  
747 payment under a specified provision of the mortgage or is  
748 otherwise deemed in uncured default under a specified provision  
749 of the mortgage.

750 3. The affidavit shall also specify the amounts secured by  
751 the lien as of the date of the affidavit and a per diem amount  
752 to account for further accrual of the amounts secured by the  
753 lien.

754 4. The affidavit shall also state that the appropriate

580-02035-13

2013696c1

755 amount of documentary stamp tax and intangible taxes has been  
756 paid upon recording of the mortgage, or otherwise paid to the  
757 state.

758 5. The affidavit shall also state that the lienholder is  
759 the holder of the note and has complied with all preconditions  
760 in the note and mortgage to determine the amounts secured by the  
761 lien and to initiate the use of the trustee foreclosure  
762 procedure.

763 (4) CONDITIONS TO TRUSTEE'S EXERCISE OF POWER OF SALE.—A  
764 trustee may sell an encumbered timeshare interest foreclosed  
765 under this section if:

766 (a) The trustee has received the affidavit from the  
767 lienholder under paragraph (2) (b);

768 (b) The trustee has not received a written objection to the  
769 use of the trustee foreclosure procedure under paragraph (3) (a)  
770 and the timeshare interest was not redeemed under paragraph  
771 (3) (b);

772 (c) There is no lis pendens recorded and pending against  
773 the same timeshare interest before the initiation of the trustee  
774 foreclosure action and provided a notice of lis pendens has been  
775 recorded pursuant to paragraph (5) (h), and the trustee has not  
776 been served notice of the filing of any action to enjoin the  
777 trustee foreclosure sale;

778 (d) The trustee is in possession of the original promissory  
779 note executed by the mortgagor and secured by the mortgage lien;

780 (e) The trustee has provided written notice of default and  
781 intent to foreclose as required under subsection (5) and a  
782 period of at least 30 calendar days has elapsed after such  
783 notice is deemed perfected under subsection (5); ~~and~~

580-02035-13

2013696c1

784 (f) The notice of sale required under subsection (6) has  
785 been recorded in the official records of the county in which the  
786 mortgage was recorded; and

787 (g) The lienholder has provided the trustee with a title  
788 search of the timeshare interest identifying any junior  
789 interestholders of record, the effective date of which search  
790 must be within 60 calendar days before the date it is delivered  
791 to the trustee. If a title search reveals that incorrect  
792 obligors or junior interestholders have been served or  
793 additional obligors or junior interestholders have not been  
794 served, the foreclosure action may not proceed until the notices  
795 required pursuant to this section have been served on the  
796 correct or additional obligors or junior interestholders and all  
797 applicable time periods have expired.

798 (5) NOTICE OF DEFAULT AND INTENT TO FORECLOSE.-

799 (a) In any foreclosure proceeding under this section, the  
800 trustee is required to notify the obligor of the proceeding by  
801 sending the obligor a written notice of default and intent to  
802 foreclose to the notice address of the obligor by certified  
803 mail, registered mail, or permitted delivery service, return  
804 receipt requested, and by first-class mail ~~or permitted delivery~~  
805 ~~service~~, postage prepaid, as follows:

806 1. The notice of default and intent to foreclose shall  
807 identify the obligor, the notice address of the obligor, the  
808 legal description of the timeshare interest, the nature of the  
809 default, the amounts secured by the lien, and a per diem amount  
810 to account for further accrual of the amounts secured by the  
811 lien and shall state the method by which the obligor may cure  
812 the default, including the period of time after the date of the

580-02035-13

2013696c1

813 notice of default and intent to foreclose within which the  
814 obligor may cure the default.

815         2. The notice of default and intent to foreclose shall  
816 include an objection form with which the obligor can object to  
817 the use of the trustee foreclosure procedure by signing and  
818 returning the objection form to the trustee. The objection form  
819 shall identify the obligor, the notice address of the obligor,  
820 the timeshare interest, and the return address of the trustee  
821 and shall state: "*The undersigned obligor exercises the*  
822 *obligor's right to object to the use of the trustee foreclosure*  
823 *procedure contained in section 721.856, Florida Statutes.*"

824         3. The notice of default and intent to foreclose shall also  
825 contain a statement in substantially the following form:

826  
827         *If you fail to cure the default as set forth in this*  
828 *notice or take other appropriate action with regard to*  
829 *this foreclosure matter, you risk losing ownership of*  
830 *your timeshare interest through the trustee*  
831 *foreclosure procedure established in section 721.856,*  
832 *Florida Statutes. You may choose to sign and send to*  
833 *the trustee the enclosed objection form, exercising*  
834 *your right to object to the use of the trustee*  
835 *foreclosure procedure. Upon the trustee's receipt of*  
836 *your signed objection form, the foreclosure of the*  
837 *lien with respect to the default specified in this*  
838 *notice shall be subject to the judicial foreclosure*  
839 *procedure only. You have the right to cure your*  
840 *default in the manner set forth in this notice at any*  
841 *time before the trustee's sale of your timeshare*

580-02035-13

2013696c1

842           *interest. If you do not object to the use of the*  
843           *trustee foreclosure procedure, you will not be subject*  
844           *to a deficiency judgment even if the proceeds from the*  
845           *sale of your timeshare interest are insufficient to*  
846           *offset the amounts secured by the lien.*

847

848           4. The trustee shall also mail a copy of the notice of  
849           default and intent to foreclose, without the objection form, to  
850           the notice address of any junior interestholder by certified  
851           mail, registered mail, or permitted delivery service, return  
852           receipt requested, and by first-class mail ~~or permitted delivery~~  
853           ~~service~~, postage prepaid.

854           5. Notice under this paragraph is considered perfected upon  
855           the trustee receiving the return receipt bearing the signature  
856           of the obligor or junior interestholder, as applicable, within  
857           30 calendar days after the trustee sent the notice under this  
858           paragraph. Notice under this paragraph is not perfected if:

859           a. The notice is returned as undeliverable within 30  
860           calendar days after the trustee sent the notice;~~if~~

861           b. The trustee cannot, in good faith, ascertain from the  
862           receipt that the obligor or junior interestholder, as  
863           applicable, is the person who signed the receipt because all or  
864           a portion of the obligor's or junior interestholder's name is  
865           not on the signed receipt or the trustee cannot otherwise  
866           determine that the obligor or junior interestholder signed the  
867           receipt;~~or~~

868           c. ~~if~~ The receipt from the obligor or junior  
869           interestholder, as applicable, is returned or refused within 30  
870           calendar days after the trustee sent the notice.

580-02035-13

2013696c1

871 (b) If the notice required by paragraph (a) is returned as  
872 undeliverable within 30 calendar days after the trustee sent the  
873 notice, the trustee shall perform a diligent search and inquiry  
874 to obtain a different address for the obligor or junior  
875 interestholder. For purposes of this paragraph, any address  
876 known and used by the lienholder for sending regular mailings or  
877 other communications from the lienholder to the obligor or  
878 junior interestholder, as applicable, shall be included with  
879 other addresses produced from the diligent search and inquiry,  
880 if any.

881 1. If the trustee's diligent search and inquiry produces an  
882 address different from the notice address, the trustee shall  
883 mail a copy of the notice by certified mail, registered mail, or  
884 permitted delivery service, return receipt requested, and by  
885 first-class mail ~~or permitted delivery service~~, postage prepaid,  
886 to the new address. Notice under this subparagraph is considered  
887 perfected upon the trustee receiving the return receipt bearing  
888 the signature of the obligor or junior interestholder, as  
889 applicable, within 30 calendar days after the trustee sent the  
890 notice under this subparagraph. Notice under this subparagraph  
891 is not perfected if the receipt from the obligor or junior  
892 interestholder is refused, returned, or the trustee cannot, in  
893 good faith, ascertain ~~from the receipt~~ that the obligor or  
894 junior interestholder, as applicable, is the person who signed  
895 the receipt because all or a portion of the obligor's or junior  
896 interestholder's name is not on the signed receipt or because  
897 the trustee cannot otherwise determine that the obligor or  
898 junior interestholder signed the receipt ~~or the receipt from the~~  
899 ~~obligor or junior interestholder, as applicable, is returned~~

580-02035-13

2013696c1

900 ~~refused~~. If the trustee does not perfect notice under this  
901 subparagraph, the trustee shall perfect service in the manner  
902 set forth in paragraph (c).

903 2. If the trustee's diligent search and inquiry does not  
904 locate a different address for the obligor or junior  
905 interestholder, as applicable, the trustee may perfect notice  
906 against that person under paragraph (c).

907 (c) If the notice is not perfected under subparagraph  
908 (a)5., and such notice was not returned as undeliverable, or if  
909 the notice was not perfected under subparagraph (b)1., the  
910 trustee may perfect notice by publication in a newspaper of  
911 general circulation in the county or counties in which the  
912 timeshare interest is located. The notice shall appear at least  
913 once a week for 2 consecutive weeks. The notice of default and  
914 intent to foreclose perfected by publication shall identify the  
915 obligor, the notice address of the obligor, the legal  
916 description of the timeshare interest, the nature of the action  
917 in short and simple terms, the name and contact information of  
918 the trustee, and the period of time after the date of the notice  
919 of default and intent to foreclose within which the obligor may  
920 cure the default. The trustee may group an unlimited number of  
921 notices in the same publication, if all of the notices pertain  
922 to the same timeshare plan. Notice under this paragraph is  
923 considered perfected upon publication as required in this  
924 paragraph.

925 (d) If notice is perfected under subparagraph (a)5., the  
926 trustee shall execute an affidavit in recordable form setting  
927 forth the manner in which notice was perfected and attach the  
928 affidavit to the certificate of compliance set forth in



580-02035-13

2013696c1

929 subsection (9). The affidavit shall state the nature of the  
930 notice, the date on which the notice was mailed, the name and  
931 address on the envelope containing the notice, the manner in  
932 which the notice was mailed, and the basis for that knowledge.

933 (e) If notice is perfected under subparagraph (b)1., the  
934 trustee shall execute an affidavit in recordable form setting  
935 forth the manner in which notice was perfected and attach the  
936 affidavit to the certificate of compliance set forth in  
937 subsection (9). The affidavit shall state the nature of the  
938 notice, the dates on which the notice was mailed, the name and  
939 addresses on the envelopes containing the notice, the manner in  
940 which the notice was mailed, and the fact that a signed receipt  
941 from the certified mail, registered mail, or permitted delivery  
942 service was timely received, ~~and the name and address on the~~  
943 ~~envelopes containing the notice.~~

944 (f) If notice is perfected under paragraph (c), the trustee  
945 shall execute an affidavit in recordable form setting forth the  
946 manner in which notice was perfected and attach the affidavit to  
947 the certificate of compliance set forth in subsection (9). The  
948 affidavit shall include all the information contained in either  
949 paragraph (d) or paragraph (e), as applicable, shall state that  
950 the notice was perfected by publication and shall state that  
951 ~~after~~ diligent search and inquiry was made for the current  
952 address for the person, if paragraph (b) applies. The affidavit  
953 shall also include a statement that notice was perfected by  
954 ~~publication, and shall set forth~~ the information required, as  
955 applicable, by s. 49.041 in the case of a natural person or s.  
956 49.051 in the case of a corporation, ~~whichever is applicable.~~ No  
957 other action of the trustee is necessary to perfect notice.

580-02035-13

2013696c1

958 (g) Notice under paragraph (a) or paragraph (b) is  
959 perfected as to all obligors who have the same address if notice  
960 is perfected as to at least one obligor at that address pursuant  
961 to the provisions of this subsection.

962 (h) The initiation of a trustee foreclosure action operates  
963 as a lis pendens on the timeshare interest pursuant to s. 48.23  
964 if a notice of lis pendens is recorded in the official records  
965 of the county or counties in which the mortgage is recorded and  
966 such notice has not expired pursuant to s. 48.23(2) or been  
967 withdrawn or discharged. The notice of lis pendens must contain  
968 the following:

- 969 1. The name of the obligor.
- 970 2. The date of the initiation of the trustee foreclosure  
971 action, which date shall be the date of the sending of the  
972 notice of default and intent to foreclose to the obligor.
- 973 3. The name and contact information of the trustee.
- 974 4. The legal description of the timeshare interest.
- 975 5. A statement that a trustee foreclosure action has been  
976 initiated against the timeshare interest pursuant to this  
977 section.

978 (6) NOTICE OF SALE.—

979 (c) After the date of recording of the notice of sale,  
980 notice is not required to be given to any person claiming an  
981 interest in the timeshare interest except as provided in this  
982 section. If a notice of lis pendens has not previously been  
983 recorded pursuant to paragraph (5) (h), the recording of the  
984 notice of sale has the same force and effect as the filing of a  
985 lis pendens in a judicial proceeding under s. 48.23.

986 (d)1. The trustee shall publish the notice of sale in a

580-02035-13

2013696c1

987 newspaper of general circulation in the county or counties in  
988 which the timeshare interest is located at least once a week for  
989 2 consecutive weeks before the date of the sale. The last  
990 publication shall occur at least 5 calendar days before the  
991 sale.

992 2. The trustee may group an unlimited number of notices of  
993 sale in the same publication, if all of the notices of sale  
994 pertain to the same timeshare plan.

995 (7) MANNER OF SALE.—

996 (b) The trustee shall conduct the sale and act as the  
997 auctioneer. The trustee may use a third party to conduct the  
998 sale on behalf of the trustee and the trustee is liable for the  
999 conduct of the sale and the actions of the third party with  
1000 respect to the conduct of the sale.

1001 (13) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE  
1002 PROCEDURE.—

1003 (b) Any trustee who intentionally violates the provisions  
1004 of this section concerning the trustee foreclosure procedure  
1005 commits a felony of the third degree, punishable as provided in  
1006 s. 775.082, s. 775.083, or s. 775.084. A trustee who incorrectly  
1007 ascertains that the obligor signed the return receipt as  
1008 required in s. 721.856(5) does not violate this section if the  
1009 trustee made a good faith effort to properly ascertain that it  
1010 is the obligor who signed the return receipt in accordance with  
1011 subsection (5).

1012 Section 8. This act shall take effect July 1, 2013.