

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.

30 |

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

32 |

33 | Section 1. Paragraph (d) of subsection (2) of section
 34 | 718.112, Florida Statutes, is amended to read:

35 | 718.112 Bylaws.—

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

39 | (d) Unit owner meetings.—

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

46 | 2. Unless the bylaws provide otherwise, a vacancy on the
 47 | board caused by the expiration of a director's term shall be
 48 | filled by electing a new board member, and the election must be
 49 | by secret ballot. An election is not required if the number of
 50 | vacancies equals or exceeds the number of candidates. For
 51 | purposes of this paragraph, the term "candidate" means an
 52 | eligible person who has timely submitted the written notice, as
 53 | described in sub-subparagraph 4.a., of his or her intention to
 54 | become a candidate. Except in a timeshare condominium, or if the
 55 | staggered term of a board member does not expire until a later
 56 | annual meeting, or if all members' terms would otherwise expire

57 | but there are no candidates, the terms of all board members
58 | expire at the annual meeting, and such members may stand for
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
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
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
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
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
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

HB 7025

2013

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
229 of 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
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 4.a., an
 256 association of 10 or fewer units may, by affirmative vote of a
 257 majority of the total voting interests, provide for different
 258 voting and election procedures in its bylaws, which may be by a
 259 proxy specifically delineating the different voting and election
 260 procedures. The different voting and election procedures may
 261 provide for elections to be conducted by limited or general
 262 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
 267 timeshare unit, coupled with a freehold estate or an estate for
 268 years with a future interest in a timeshare property or a
 269 specified portion thereof. The term includes ~~shall also mean~~ an
 270 interest in a condominium unit pursuant to s. 718.103, an
 271 interest in a cooperative unit pursuant to s. 719.103, or a
 272 direct or indirect ~~an~~ interest in a trust that complies in all
 273 respects with the provisions of s. 721.08(2)(c)4., provided that
 274 the trust does not contain any personal property timeshare
 275 interests. A timeshare estate is a parcel of real property under
 276 the laws of 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

HB 7025

2013

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.

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.

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

365 (XII) Fees payable to the division.
 366 b. Expenses for a purchaser:
 367 (I) Rent for the timeshare unit, if subject to a lease.
 368 (II) Rent payable by the purchaser directly to the lessor
 369 or agent under any lease for the use of facilities, which use
 370 and payment is a mandatory condition of ownership and is not
 371 included in the common expenses or assessments for common
 372 maintenance paid by the purchasers to the managing entity.
 373 4. The estimated amounts shall be stated for a period of
 374 at least 12 months and may distinguish between the period before
 375 ~~prior to~~ the time that purchasers elect a majority of the board
 376 of administration and the period after that date.
 377 5. If the developer intends to guarantee the level of
 378 assessments, such guarantee must be based upon a good faith
 379 estimate of the revenues and expenses of the timeshare plan. The
 380 guarantee must include a description of the following:
 381 a. The specific time period measured in one or more
 382 calendar or fiscal years during which the guarantee will be in
 383 effect.
 384 b. A statement that the developer will pay all common
 385 expenses incurred in excess of the total revenues of the
 386 timeshare plan pursuant to s. 721.15(2) if the developer has
 387 excused himself or herself from the payment of assessments
 388 during the guarantee period.
 389 c. The level, expressed in total dollars, at which the
 390 developer guarantees the budget. If the developer has reserved
 391 the right to extend or increase the guarantee level pursuant to
 392 s. 721.15(2), a disclosure must be included to that effect.

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

398 | a. The specific amount of such trust funds and the source
 399 | of the funds.

400 | b. The name and address of the trustee.

401 | c. The investment methods permitted by the trust
 402 | agreement.

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

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

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

417 | 721.82 Definitions.—As used in this part, the term:

418 | (9) "Notice address" means:

419 | (a) As to an assessment lien, the address of the owner of
 420 | a timeshare interest as reflected by the books and records of

421 the timeshare plan under ss. 721.13(4) and 721.15(7).

422 (b) As to a mortgage lien:

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

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

431 (c) As to a junior interestholder, the address as set
 432 forth in the recorded instrument creating the junior lien or
 433 interest, or in any recorded amendment thereto changing the
 434 address, or in any written notification by the junior
 435 interestholder to the foreclosing lienholder changing the
 436 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.—

HB 7025

2013

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

458 Section 6. Paragraph (c) of subsection (2), subsections
459 (4) 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
463 assessment liens.—The provisions of this section establish a
464 trustee foreclosure procedure for assessment liens.

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

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

HB 7025

2013

477 | ~~search must be a date that is within 60 calendar days before the~~
478 | ~~date of the affidavit.~~

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

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

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

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

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

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

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

504 | (d) The trustee has provided written notice of default and

HB 7025

2013

505 intent to foreclose as required under subsection (5) and a
506 period of at least 30 calendar days has elapsed after such
507 notice is deemed perfected under subsection (5); ~~and~~

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

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

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

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

530 1. The notice of default and intent to foreclose shall
531 identify the obligor, the notice address of the obligor, the
532 legal description of the timeshare interest, the nature of the

HB 7025

2013

533 default, the amounts secured by the lien, and a per diem amount
534 to account for further accrual of the amounts secured by the
535 lien and shall state the method by which the obligor may cure
536 the default, including the period of time after the date of the
537 notice of default and intent to foreclose within which the
538 obligor may cure the default.

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

548 3. The notice of default and intent to foreclose shall
549 also contain a statement in substantially the following form:
550 If you fail to cure the default as set forth in this notice or
551 take other appropriate action with regard to this foreclosure
552 matter, you risk losing ownership of your timeshare interest
553 through the trustee foreclosure procedure established in section
554 721.855, Florida Statutes. You may choose to sign and send to
555 the trustee the enclosed objection form, exercising your right
556 to object to the use of the trustee foreclosure procedure. Upon
557 the trustee's receipt of your signed objection form, the
558 foreclosure of the lien with respect to the default specified in
559 this notice shall be subject to the judicial foreclosure
560 procedure only. You have the right to cure your default in the

561 manner set forth in this notice at any time before the trustee's
 562 sale of your timeshare interest. If you do not object to the use
 563 of the trustee foreclosure procedure, you will not be subject to
 564 a deficiency judgment even if the proceeds from the sale of your
 565 timeshare interest are insufficient to offset the amounts
 566 secured by the lien.

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

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

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

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

588 c. ~~if~~ The receipt from the obligor or junior

HB 7025

2013

589 interestholder, as applicable, is returned or refused within 30
590 calendar days after the trustee sent the notice.

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

601 1. If the trustee's diligent search and inquiry produces
602 an address different from the notice address, the trustee shall
603 mail a copy of the notice by certified mail, registered mail, or
604 permitted delivery service, return receipt requested, and by
605 first-class mail ~~or permitted delivery service~~, postage prepaid,
606 to the new address. Notice under this subparagraph is considered
607 perfected upon the trustee receiving the return receipt bearing
608 the signature of the obligor or junior interestholder, as
609 applicable, within 30 calendar days after the trustee sent the
610 notice under this subparagraph. Notice under this subparagraph
611 is not perfected if the receipt from the obligor or junior
612 interestholder, as applicable, is refused, returned, or the
613 trustee cannot, in good faith, ascertain from the receipt that
614 the obligor or junior interestholder, as applicable, is the
615 person who signed the receipt because all or a portion of the
616 obligor's or junior interestholder's name is not on the signed

HB 7025

2013

617 receipt or because the trustee cannot otherwise determine that
618 the obligor or junior interestholder signed the receipt ~~or the~~
619 ~~receipt from the obligor or junior interestholder, as~~
620 ~~applicable, is returned refused.~~ If the trustee does not perfect
621 notice under this subparagraph, the trustee shall perfect
622 service in the manner set forth in paragraph (c).

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

627 (c) If the notice is not perfected under subparagraph
628 (a)5., and such notice was not returned as undeliverable, or if
629 the notice was not perfected under subparagraph (b)1., the
630 trustee may perfect notice by publication in a newspaper of
631 general circulation in the county or counties in which the
632 timeshare interest is located. The notice shall appear at least
633 once a week for 2 consecutive weeks. The notice of default and
634 intent to foreclose perfected by publication shall identify the
635 obligor, the notice address of the obligor, the legal
636 description of the timeshare interest, the nature of the action
637 in short and simple terms, the name and contact information of
638 the trustee, and the period of time after the date of the notice
639 of default and intent to foreclose within which the obligor may
640 cure the default. The trustee may group an unlimited number of
641 notices in the same publication, if all of the notices pertain
642 to the same timeshare plan. Notice under this paragraph is
643 considered perfected upon publication as required in this
644 paragraph.

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

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

664 (f) If notice is perfected by publication under paragraph
665 (c), the trustee shall execute an affidavit in recordable form
666 setting forth the manner in which notice was perfected and
667 attach the affidavit to the certificate of compliance set forth
668 in subsection (9). The affidavit shall include all the
669 information contained in either paragraph (d) or paragraph (e),
670 as applicable, shall state that the notice was perfected by
671 publication and shall state that ~~after~~ diligent search and
672 inquiry was made for the current address for the person, if

HB 7025

2013

673 paragraph (b) applies. The affidavit ~~and shall also include a~~
674 ~~statement that notice was perfected by publication, and shall~~
675 ~~set forth~~ the information required, as applicable, by s. 49.041
676 in the case of a natural person or s. 49.051 in the case of a
677 corporation, ~~whichever is applicable.~~ No other action of the
678 trustee is necessary to perfect notice.

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

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

- 690 1. The name of the obligor.
- 691 2. The date of the initiation of the trustee foreclosure
692 action, which date shall be the date of the sending of the
693 notice of default and intent to foreclose to the obligor.
- 694 3. The name and contact information of the trustee.
- 695 4. The legal description of the timeshare interest.
- 696 5. A statement that a trustee foreclosure action has been
697 initiated against the timeshare interest pursuant to this
698 section.

699 (6) NOTICE OF SALE.—

700 (c) After the date of recording of the notice of sale,

HB 7025

2013

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

707 (7) MANNER OF SALE.—

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

713 (14) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE
714 PROCEDURE.—

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

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

728 721.856 Procedure for the trustee foreclosure of mortgage

729 liens.—The provisions of this section establish a trustee
 730 foreclosure procedure for mortgage liens.

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

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

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

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

752 4. The affidavit shall also state that the appropriate
 753 amount of documentary stamp tax and intangible taxes has been
 754 paid upon recording of the mortgage, or otherwise paid to the
 755 state.

756 5. The affidavit shall also state that the lienholder is

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 7025

2013

757 the holder of the note and has complied with all preconditions
758 in the note and mortgage to determine the amounts secured by the
759 lien and to initiate the use of the trustee foreclosure
760 procedure.

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

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

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

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

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

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

783 (f) The notice of sale required under subsection (6) has
784 been recorded in the official records of the county in which the

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

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

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

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

813 obligor may cure the default.

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

823 3. The notice of default and intent to foreclose shall
824 also contain a statement in substantially the following form:
825 If you fail to cure the default as set forth in this notice or
826 take other appropriate action with regard to this foreclosure
827 matter, you risk losing ownership of your timeshare interest
828 through the trustee foreclosure procedure established in section
829 721.856, Florida Statutes. You may choose to sign and send to
830 the trustee the enclosed objection form, exercising your right
831 to object to the use of the trustee foreclosure procedure. Upon
832 the trustee's receipt of your signed objection form, the
833 foreclosure of the lien with respect to the default specified in
834 this notice shall be subject to the judicial foreclosure
835 procedure only. You have the right to cure your default in the
836 manner set forth in this notice at any time before the trustee's
837 sale of your timeshare interest. If you do not object to the use
838 of the trustee foreclosure procedure, you will not be subject to
839 a deficiency judgment even if the proceeds from the sale of your
840 timeshare interest are insufficient to offset the amounts

841 secured by the lien.

842 4. The trustee shall also mail a copy of the notice of
843 default and intent to foreclose, without the objection form, to
844 the notice address of any junior interestholder by certified
845 mail, registered mail, or permitted delivery service, return
846 receipt requested, and by first-class mail ~~or permitted delivery~~
847 ~~service~~, postage prepaid.

848 5. Notice under this paragraph is considered perfected
849 upon the trustee receiving the return receipt bearing the
850 signature of the obligor or junior interestholder, as
851 applicable, within 30 calendar days after the trustee sent the
852 notice under this paragraph. Notice under this paragraph is not
853 perfected if:

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

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

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

866 (b) If the notice required by paragraph (a) is returned as
867 undeliverable within 30 calendar days after the trustee sent the
868 notice, the trustee shall perform a diligent search and inquiry

HB 7025

2013

869 to obtain a different address for the obligor or junior
870 interestholder. For purposes of this paragraph, any address
871 known and used by the lienholder for sending regular mailings or
872 other communications from the lienholder to the obligor or
873 junior interestholder, as applicable, shall be included with
874 other addresses produced from the diligent search and inquiry,
875 if any.

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

HB 7025

2013

897 set forth in paragraph (c).

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

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

920 (d) If notice is perfected under subparagraph (a)5., the
921 trustee shall execute an affidavit in recordable form setting
922 forth the manner in which notice was perfected and attach the
923 affidavit to the certificate of compliance set forth in
924 subsection (9). The affidavit shall state the nature of the

HB 7025

2013

925 notice, the date on which the notice was mailed, the name and
926 address on the envelope containing the notice, the manner in
927 which the notice was mailed, and the basis for that knowledge.

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

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

HB 7025

2013

953 trustee is necessary to perfect notice.

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

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

965 1. The name of the obligor.

966 2. The date of the initiation of the trustee foreclosure
967 action, which date shall be the date of the sending of the
968 notice of default and intent to foreclose to the obligor.

969 3. The name and contact information of the trustee.

970 4. The legal description of the timeshare interest.

971 5. A statement that a trustee foreclosure action has been
972 initiated against the timeshare interest pursuant to this
973 section.

974 (6) NOTICE OF SALE.—

975 (c) After the date of recording of the notice of sale,
976 notice is not required to be given to any person claiming an
977 interest in the timeshare interest except as provided in this
978 section. If a notice of lis pendens has not previously been
979 recorded pursuant to paragraph (5) (h), the recording of the
980 notice of sale has the same force and effect as the filing of a

981 | lis pendens in a judicial proceeding under s. 48.23.

982 | (d)1. The trustee shall publish the notice of sale in a
 983 | newspaper of general circulation in the county or counties in
 984 | which the timeshare interest is located at least once a week for
 985 | 2 consecutive weeks before the date of the sale. The last
 986 | publication shall occur at least 5 calendar days before the
 987 | sale.

988 | 2. The trustee may group an unlimited number of notices of
 989 | sale in the same publication, if all of the notices of sale
 990 | pertain to the same timeshare plan.

991 | (7) MANNER OF SALE.—

992 | (b) The trustee shall conduct the sale and act as the
 993 | auctioneer. The trustee may use a third party to conduct the
 994 | sale on behalf of the trustee and the trustee is liable for the
 995 | conduct of the sale and the actions of the third party with
 996 | respect to the conduct of the sale.

997 | (13) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE
 998 | PROCEDURE.—

999 | (b) Any trustee who intentionally violates the provisions
 1000 | of this section concerning the trustee foreclosure procedure
 1001 | commits a felony of the third degree, punishable as provided in
 1002 | s. 775.082, s. 775.083, or s. 775.084. A trustee who incorrectly
 1003 | ascertains that the obligor signed the return receipt as
 1004 | required in s. 721.855(5) does not violate this section if the
 1005 | trustee made a good faith effort to properly ascertain that it
 1006 | is the obligor who signed the return receipt in accordance with
 1007 | subsection (5).

1008 | Section 8. This act shall take effect July 1, 2013.