HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 575 Vacation and Timeshare Plans
SPONSOR(S): Regulatory Reform Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform Subcommittee		Thompson	Anstead

SUMMARY ANALYSIS

A timeshare interest is a form of ownership of real and personal property where multiple parties hold the right to use a condominium unit or a cooperative unit, and each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property. The Florida Vacation Plan and Timesharing Act establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers. The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (DBPR) administers the Act.

The bill:

- Allows timeshare developers to electronically deliver certain documents.
- Eliminates certain requirements for the offering of incidental benefits in the sale of a timeshare plan.
- Allows a purchaser to assign or transfer incidental benefits without the approval of the provider.
- Revises the requirements for the cancellation of a timeshare plan by clarifying that the term “execution date” refers to the execution date of the contract.
- Extends the period for voiding a contract for which the closing occurred before the expiration of the required cancellation period from one year to five years. Under the bill, the period for voiding a contract for which a prohibited attempt has been made to obtain the waiver of the cancellation right remains one year.
- Expands the definition for the term “advertising material” to include any message, text, picture, video, or other content made available, delivered, or shared electronically through the Internet or any other Internet-based access.
- Exempts electronic advertising materials from required disclosures if such disclosures are given before a purchaser takes any affirmative action pursuant to a promotion.
- Revises the provisions for the resolution of owner disputes related to the allocation of the share of the net proceeds from the disposition of the timeshare property in a termination.
- Allows the board of administration or the members of an owners’ association to conduct board meetings or owners’ meetings electronically.
- Authorizes the managing entity of a timeshare plan and the board of an owners’ association to exercise specified emergency powers.
- Allows timeshare estates and timeshare licenses to be offered in a nonspecific multisite timeshare plan.
- Allows electronic delivery of required notices in the foreclosure of a mortgage interest or assessment lien.
- Revises certain foreclosure procedures.

The bill does not appear to have an impact on state or local government.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Vacation Plan and Timesharing Act

A timeshare interest is a form of ownership of real and personal property.[1] In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property.

Chapter 721, F.S., the Florida Vacation Plan and Timesharing Act (Act), administered by the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) within the Department of Business and Professional Regulation (DBPR), establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.[2] The Act applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least three years when the accommodations and facilities are located or offered within this state.[3] The Act governs vacation plans and timesharing,[4] and multisite vacation and timeshare plans that are also known as vacation clubs.[5]

The term "timeshare plan" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, where a purchaser, for consideration, receives ownership rights in or a right to use accommodations and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.[6] The term includes both personal property timeshare and real property timeshare plans.[7]

Each timeshare plan must have a managing entity that must be the developer, a separate manager or management firm, or an owners' association. The managing entity operates or maintains the timeshare plan.[8]

A timeshare unit is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.[9]

A "timeshare estate" is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.[10] The term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary's spouse or other dependent.

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[1] *See* s. 721.05(36), F.S.
[2] S. 721.02(2) and (3), F.S.
[3] S. 721.03, F.S.
[4] Ch. 721, part I, F.S.
[5] Ch. 721, part II, F.S.
[6] S. 721.05(39), F.S.
[7] A "personal property timeshare plan," is a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property. s. 721.05(39)(a) F.S. A "real property timeshare plan," is a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property. Section 721.05(39)(b), F.S.
[8] S. 721.13(1)(a), F.S. The duties of a managing entity are provided in s. 721.13(3), F.S.
[9] *See* ss. 721.05(41) and 718.103(26), F.S.
[10] S. 721.05(34), F.S.

A "timeshare license" is the right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate.[11] A "timeshare interest" is a timeshare estate, a personal property timeshare interest, or a timeshare license.[12]

Exemptions from Condominium and Cooperative Associations

A timeshare plan is subject to chs. 718 and 719, F.S., relating to condominium and cooperative associations, respectively. However, if the plan is compliant with the Act it is exempt from certain provisions of chs. 718 or 719, F.S., including provisions relating to sales or reservation deposits prior to closing, disclosures prior to sale, and conversions to condominiums or cooperatives.[13]

A declaration of condominium, which is the instrument that creates a condominium,[14] must provide, if timeshare estates will or may be created with respect to any unit in the condominium, a statement in conspicuous type declaring that timeshare estates will or may be created with respect to units in the condominium. The declaration of condominium must also define and describe in detail the degree, quantity, nature, and extent of the timeshare estates that will or may be created.[15]

Timeshare estates may not be created with respect to any condominium unit except pursuant to provisions in the declaration expressly permitting the creation of such estates.[16]

Current law relating to amending the declaration of condominium, prohibits, unless otherwise provided in the declaration as originally recorded, an amendment to the declaration to create timeshare estates in any unit of the condominium, unless the record owner of each unit of the condominium and the record owners of liens on each unit of the condominium join in the execution of the amendment.[17]

Public Offering Statement

Current law requires a developer to submit to the Division a public offering statement before any timeshare plan is offered for sale.[18] The Division must prescribe the form of the public offering statement and approve the public offering statement before it is delivered to prospective purchasers.[19]

The public offering statement must contain a statement in conspicuous type informing the purchaser of a timeshare plan of their statutory right to cancel their purchase contract before midnight of the 10th calendar day following the date the purchaser signed the purchase contract, the date on which the purchaser received the last of all documents required to be given pursuant to s. 721.07(2)(d)2., F.S., or 10 calendar days after the purchaser receives any required revisions, whichever is later.[20] The Developer is required to furnish each purchaser with the following:[21]

- A copy of the purchaser public offering statement text in the form approved by the Division for delivery to purchasers.
- Copies of the exhibits required to be filed with the Division.
- A receipt for timeshare plan documents and a list describing any exhibit to the filed public offering statement filed with the Division which is not delivered to the purchaser.
    - The Division is authorized to prescribe by rule the form of the receipt for timeshare plan documents and the description of exhibits list that must be furnished to the purchaser.
    - The description of documents list utilized by a developer must be filed with the Division for review as part of the filed public offering statement.

[11] S. 721.05(37), F.S.
[12] S. 721.05(36), F.S.
[13] *See* s. 721.03(3), F.S.
[14] S. 718.103(15), F.S.
[15] S. 718.104(4)(o), F.S.
[16] S. 718.1045, F.S.
[17] S. 718.110(8), F.S.
[18] S. 721.07, F.S.
[19] S. 721.07(6), F.S.
[20] *See also* s. 721.10, F.S., providing for a 10-day cancellation period.
[21] S. 721.07(6), F.S.

    - The developer must provide the managing entity with a copy of the approved filed public offering statement and any approved amendments to be maintained by the managing entity as part of the books and records of the timeshare plan.
- Any other exhibit which the developer includes as part of the purchaser public offering statement, provided that the developer first files the exhibit with the Division.
- An executed copy of any document which the purchaser signs.

Incidental Benefits

Current law permits the offering of specified incidental benefits to purchasers of timeshare interests under specified circumstances.[22] The term "incidental benefit" means:[23]

> …an accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan or to a purchaser of a timeshare plan prior to the expiration of his or her initial 10-day voidability period pursuant to s. 721.10[, F.S.,]; which is not an exchange program as defined in [s. 721.05(16), F.S.]; and which complies with the provisions of s. 721.075[, F.S.] The term shall not include an offer of the use of the accommodations and facilities of the timeshare plan on a free or discounted one-time basis.

Examples of incidental benefits would be exchange rights, travel insurance, bonus weeks, referral awards, and golf and tennis packages.[24]

Incidental benefits are subject to required disclosures and restriction, including a limit on the aggregate represented value of all incidental benefits offered by a developer to a purchaser of not more than 15 percent of the purchase price paid by the purchaser for his or her timeshare interest. The incidental benefits must be filed with the Division for review in conjunction with the filing of a timeshare plan or in connection with a previously filed timeshare plan.[25]

In addition, each purchaser of a timeshare plan must execute a separate acknowledgment and disclosure statement with respect to all incidental benefits. The acknowledgment and disclosure statement must include certain information, including a statement that: [26]

- Explains the use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and that payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation;
- Indicates the source of the services, points, or other products that constitute the incidental benefit; and
- Explains that the incidental benefit is not assignable or otherwise transferable by the prospective purchaser or purchaser.

The acknowledgement and disclosure statement must be filed with the division prior to use.[27]

The developer must promptly notify the division upon learning of the unavailability of any incidental benefit.[28]

Cancellations

Current law provides for the cancellation of a timeshare plan contract by the purchaser based on whichever of the following timeframes occurs later:[29]

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[22] S. 721.075, F.S.
[23] S. 721.05(19), F.S.
[24] *See* https://www.lawinsider.com/dictionary/incidental-benefit#:~:text=Incidental%20benefit%20means%20an%20accommodation,voidability%20period%20pursuant%20to%20s. (last visited Jan. 23, 2022).
[25] Section 721.075(2), F.S.
[26] *Id.*
[27] *Id.*
[28] S. 721.075(3)(a), F.S.

- Before midnight of the 10th calendar day following the date of the execution;
- The date on which the purchaser received the last of all documents required to be given pursuant to s. 721.07(2)(d)2., F.S.; or
- Ten calendar days after the purchaser received any required revisions.[30]

It is unlawful to attempt to obtain a waiver of the cancellation right of the timeshare purchaser, or to hold the closing prior to the expiration of the cancellation period. Such closing is voidable at the option of the purchaser for a period of one year after the expiration of the cancellation period.

Advertising Materials

Current law provides for the regulation of advertising materials used in connection with the sale of a timeshare plan.[31] The term "advertising material" includes a variety of materials and advertising methods, including promotional brochures, pamphlets, and radio and television advertisements.[32]

All written advertising material, including any lodging certificate, gift award, premium, discount, or display booth, must provide a disclosure in conspicuous type in substantially the following form:[33]

> This advertising material is being used for the purpose of soliciting sales of timeshare interests; or This advertising material is being used for the purpose of soliciting sales of a vacation (or vacation membership or vacation ownership) plan.

The Division may approve the use of an alternate disclosure. This conspicuous disclosure must be provided before the purchaser is required to take any affirmative action pursuant to the promotion.[34]

Termination of Timeshare Plans

Current law provides for termination of timeshare plans upon the vote or written consent of 60 percent of all the voting interests in the timeshare plan.[35]

After termination of a timeshare plan, the board of administration of the owners' association (board) serves as the termination trustee. In that fiduciary capacity, the board may bring a partition action on behalf of the tenants in common in each former timeshare property, or may sell the former timeshare property in any manner and to any person approved by a majority of all the tenants in common. The termination trustee also has all other powers reasonably necessary to accomplish the partition or sale, including the power to maintain the property while the partition action or sale is pending, and must adopt reasonable procedures to implement the partition or sale and comply with these requirements.[36]

All reasonable expenses incurred by the termination trustee relating to the performance of the trustee's duties, including reasonable fees of attorneys and other professionals, must be paid by the tenants in common, in proportion to their ownership interests.[37]

The termination trustee may adopt reasonable procedures to implement the partition or sale of the former timeshare property and comply with the requirements of s. 721.125, F.S., for the termination of a timeshare plan.[38]

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[29] S. 721.10, F.S.
[30] S. 721.07(2)(d), F.S.
[31] S. 721.11, F.S.
[32] *See* s. 721.11(2), F.S.
[33] S. 721.11(5)(a), F.S.
[34] *Id*.
[35] S. 721.125, F.S.
[36] S. 721.125(3)(a)1., F.S.
[37] S. 721.125(3)(a)2., F.S.
[38] S. 721.125(3)(a)3., F.S.

The timeshare plan termination provisions apply to timeshare plans that have been in existence for at least 25 years as of the effective date of the termination vote or consent required by s. 721.125(1), F.S.[39]

Management of a Timeshare Plan

Current law requires the developer to provide a managing entity for each timeshare plan. The managing entity may be the developer, a separate manager or management company, or an owners' association.[40]

Managing Entity Emergency Powers

Sections 718.1265, 719.128, and 720.316, F.S., provide for the exercise of emergency powers by the boards of condominium, cooperative, and homeowners' associations, respectively, in response to injury and to an anticipated declared state of emergency. The emergency powers for these association boards include provisions for the conduct meetings and elections, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication, and for the giving of meeting notices by electronic transmission.

The Act does not provide a comparable emergency authority for the managing entity of a timeshare plan.

Vacation Club Definitions

The term "nonspecific multisite timeshare plan" is defined to mean:[41]

> A multisite timeshare plan with respect to which a purchaser receives a right to use all of the accommodations and facilities, if any, of the multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.

The term "timeshare estate" is defined to mean:[42]

> A right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof, or coupled with an ownership interest in a condominium unit, an ownership interest in a cooperative unit, or a direct or indirect beneficial interest in certain trusts, provided that the trust does not contain any personal property timeshare interests. A timeshare estate is a parcel of real property.

The term "timeshare license" is defined to mean a right to occupy a timeshare unit, which right is not a personal property timeshare interest[43] or a timeshare estate.[44]

Current law providing for the offering of timeshare estates in a "specific multisite plan"[45] requires a specific multisite plan to contain or provide for all of the following matters: [46]

- The purchaser will receive a timeshare estate as defined in s. 721.05, F.S., in one of the component sites of the specific multisite timeshare plan. The use rights in the other component

[39] S. 721.125(4), F.S.
[40] S. 721.13, F.S.
[41] S. 721.52(5), F.S.
[42] S. 721.05(34), F.S.
[43] S. 721.05(28), F.S.
[44] S. 721.05(37), F.S.
[45] S. 721.52(7), F.S., defining the term "specific multisite plan."
[46] S. 721.57(2), F.S.

sites of the multisite timeshare plan shall be made available to the purchaser through the reservation system pursuant to the timeshare instrument.

- In the event that the reservation system is terminated or otherwise becomes unavailable for any reason prior to the expiration of the term of the specific multisite timeshare plan:
    - The purchaser will be able to continue to use the accommodations and facilities of the component site in which she or he has been conveyed a timeshare estate in the manner described in the timeshare instrument for that component site for the remaining term of the timeshare estate; and
    - Any use rights in that component site which had previously been made available through the reservation system to purchasers of the specific multisite timeshare plan who were not offered a timeshare estate at that component site will terminate when the reservation system is terminated or otherwise becomes unavailable for any reason.

Any offering that does not comply with these requirements is deemed to be an offering of a timeshare license.[47]

The term "timeshare estate," is defined, in part, as a parcel of real property under the laws of this state.[48] The use rights to the real property, i.e., a timeshare estate, continue in the event the reservation system is terminated or otherwise becomes unavailable for any reason prior to the expiration of the term of the specific multisite timeshare plan.[49]

Multisite Timeshare Plan Public Offering Statement

Current law requires a public offering statement for a multisite timeshare plan to contain certain information and disclosures.[50] The public offering statement must contain a description of each component site, which description may be disclosed in a written, graphic, tabular, or other form approved by the Division. In addition, the description of each component site must include certain information, including each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether or not the accommodation contains a full kitchen. For purposes of this description, a full kitchen means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.[51]

Specified documents must be included as exhibits to the filed public offering statement, if applicable, including an estimated budget for the timeshare plan and purchaser's expenses as required by the jurisdiction in which the component site is located.[52]

Foreclosures

Current law provides specific guidelines for the foreclosure of liens on timeshare interests.[53]

The term "permitted delivery service" is defined to mean "any nationally recognized common carrier delivery service, international airmail service that allows for return receipt service, or a service recognized by an international jurisdiction as the equivalent of certified, registered mail for that jurisdiction."[54]

The service of process for a foreclosure proceeding for assessment liens may be made on any person whether the person is located inside or outside this state, by certified mail, registered mail, permitted

[47] S. 721.57(1), F.S.
[48] S. 721.05(34), F.S.
[49] S. 721.57(2)(b)2., F.S.
[50] S. 721.55, F.S.
[51] S. 721.55(4)(l), F.S.
[52] S. 721.55(7), F.S.
[53] Ss. 721.80 through 721.86, F.S.
[54] S. 721.82(11), F.S.

delivery service, return receipt requested, addressed to the person to be served at the notice address, or on the person's registered agent duly appointed under s. 721.84, F.S., at the registered office.[55]

The foreclosure process for assessment liens permits the obligor to object to the lienholder's use of the trustee foreclosure procedure for a specific default any time before the sale of the timeshare interest.[56]

The foreclosure trustee must send the obligor a written notice of default and intent to foreclose the assessment lien to the notice address of the obligor by certified mail, registered mail, or permitted delivery service, return receipt requested, and by first-class mail, postage prepaid.[57]

Current law also provides comparable provisions for the trustee foreclosure of mortgage liens.[58]

Effect of the Bill

Public Offering Statement

The bill allows a developer to provide each purchaser of the timeshare plan with the approved public offering statement electronically instead of in a fully executed paper copy. Electronic delivery of the public offering statement may be done through a website or other Internet-based access, if the developer discloses to the purchaser the system requirements necessary to view the approved public offering statement and advises the purchaser to not select an alternative method of receiving the approved public offering statement unless he or she is able to review the approved public offering statement before the expiration of the 10-day cancellation period.

The bill allows the documents that must be furnished to each purchaser of a timeshare plan to be furnished electronically through a website or other Internet-based access.

Incidental Benefits

The bill allows a purchaser to assign or transfer an incidental benefit without the approval of the provider of the incidental benefit.

The bill removes:

- Certain requirements for the offering of incidental benefits in the sale of a timeshare plan.
- The limitation on the aggregate represented value of all incidental benefits.
- The requirement that incidental benefits be filed with the Division for review.
- The requirement for an acknowledgement and disclosure statement indicating the source of the services, points, or other products that constitute the incidental benefit.
- The requirements that the developer promptly notify the division upon learning of the unavailability of any incidental benefit.

Cancellations

The bill clarifies the meaning of the term "execution date" to refer to the execution date of the "contract."

The bill extends the period for voiding a contract for which the closing occurred before the expiration of the cancellation period from one year to five years. Under the bill, the period for voiding a contract for which an attempt has been made to obtain the waiver of the cancellation right remains one year.

Advertising Materials

[55] S. 721.85, F.S.
[56] S. 721.855(3), F.S.
[57] S. 721.855(5), F.S.
[58] S. 721.856, F.S.

The bill expands the definition for the term "advertising material" to include any message, text, picture, video, or other content made available, delivered, or shared electronically through the Internet or any other Internet-based access. The bill exempts such electronic advertising materials from the disclosure under s. 721.11(5), F.S., if such disclosures are given before a purchaser takes any affirmative action pursuant to a promotion.

Termination of Timeshare Plans

The bill revises provisions related to the termination of timeshare plans.

The bill clarifies that the board of administration of the owners' association is required to serve as termination trustee for the purposes of implementing the termination of the timeshare plan, unless another person is appointed as the termination trustee during the termination or by the court. The termination trustee acts in a fiduciary capacity to the owners of timeshare interests in a timeshare plan. The termination trustee also has all other powers necessary to comply with the requirements of this subsection.

The bill provides that, if an owner disputes the allocated share of the net proceeds from the disposition of the timeshare property, the trustee may file an interpleader action in circuit court and deposit the disputed funds into the court registry, at which time the timeshare property and the proceeds distributed pursuant to a disposition of the timeshare property are free of all claims and liens of the parties to the interpleader action.

The bill applies the termination procedures to all a timeshare plans in the state in existence on or after July 1, 2022, provided that the timeshare plan has been in existence for at least 25 years as of the effective date of the termination of the timeshare plan.

Management of Timeshare Plan

The bill prohibits a managing entity from sending notices that are required to be sent to the owner of a timeshare interest pursuant to chs. 718, 719, or 721, F.S., to the address of the owner's timeshare unit or timeshare plan.

The bill allows the board of administration or the members of an owners' association to conduct board meetings or owners' meetings electronically.

Managing Entity Emergency Powers

The bill authorizes the managing entity of a timeshare plan and the board of an owners' association to exercise emergency powers in response to an actual or anticipated emergency, as defined in s. 252.34(4), F.S., including, but not limited to a state of emergency declared by the Governor for the location of the timeshare accommodations or facilities of the timeshare plan. The authorized emergency powers include:

- Cancelling and rescheduling any board of administration and owners' meeting;
- Naming assistant officers who shall have the same powers as executive officers of the association with the same authority as the officers they are assisting;
- Temporarily relocating the managing entity's principal office or designate alternative principal offices;
- Entering into agreements with local government for assistance;
- Implementing an emergency plan that may include, but is not limited to, shutting down or off elevators; electricity; water, sewer, or security systems; or air conditioners;
- Determining that all or any portion of the timeshare property is unavailable for entry, use, or occupancy by the owners or the owners' family members, tenants, guests, agents, invitees, exchangers, or other occupants of the timeshare property to protect the health, safety, or welfare of such persons or to protect the accommodations or facilities of the timeshare plan;
- Requiring the evacuation of the timeshare property and providing notice of such evacuation to any owner or other occupant located on the timeshare property. If any owner or other occupant

fails or refuses to evacuate the timeshare property after the managing entity has required evacuation and provided notice, the managing entity is immune from liability or injury to persons or property arising from such failure or refusal;

- Determining if all or a portion of the timeshare property, including recreational and other accommodations or facilities, may be safely used, inhabited, or occupied, and whether all or a portion of such property needs to be closed for a period of time. However, such determination is not conclusive as to any determination of habitability pursuant to the timeshare instrument;
- Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the timeshare property;
- Levying a special assessment without a vote of the owners even if such authority does not specifically appear in the timeshare instrument;
- Borrowing money and pledging association assets without a vote of the unit owners;
- Issuing emergency rules regarding the operation of the reservations systems, and modifying or suspending rights to use the timeshare property and the one-to-one right to use requirement;
- Transferring funds in any deferred maintenance or capital expenditure reserve account to any operating account without the consent of a majority of the purchasers of the timeshare plan; and
- Taking any other actions reasonably necessary to protect the health, safety, and welfare of the owners and the owners' family members, tenants, guests, agents, invitees, exchangers, and other occupants or to protect the timeshare property.

Multisite Timeshare Plan Public Offering Statement

The bill allows the description of each component site, which may be disclosed in a written, graphic, tabular, or other form approved by the Division, that each filed public offering statement for a multisite timeshare plan must contain, to be provided to the purchaser electronically, including, but not limited to, through a website or other Internet-based access.

The bill provides that a developer is not required to file a separate public offering statement for any component site located within or outside the state in order to include the component site in the multistate timeshare plan.

Foreclosures

The bill revises the definition for the term "permitted delivery service" to mean delivery to an e-mail address, if provided by the obligor, with evidence that the lienholder received the e-mail. The revised definition also provides that permitted delivery service is only authorized for obligors who reside outside the United States.

The bill revises the laws relating to the foreclosure of assessment liens and the foreclosure of mortgage liens to provide identical service and notice requirements for the trustee's foreclosure of a mortgage interest or assessment lien.

The bill requires the obligor to object to the lienholder's use of the trustee foreclosure procedure for a specific default within 30 days after receipt of the notice of default and intent to foreclose required under s. 721.855(5), F.S., or s. 721.856(5), if applicable.

The bill amends the statutory notices that must be included in the notice of default and intent to foreclose to require a 30-day response period.

The bill also requires the obligor to object to the lienholder's use of the trustee foreclosure procedure for a specific default within 30 days of after receipt of the notice of default and intent to foreclose.

The bill removes the provisions specifying that service of the foreclosure trustee's notice of default and intent to foreclose is not perfected if the trustee cannot, in good faith, ascertain the person who signed the receipt because all or a portion of the obligor's or person's name is not on the signed receipt or

because the trustee cannot otherwise determine that the obligor or junior interest holder signed the receipt.

The bill allows, if applicable, service of the foreclosure trustee's copy of the notice of sale by "permitted delivery service," as redefined by the bill.

The bill removes the provisions that exempt a trustee from violations if the trustee incorrectly ascertains that the obligor signed the return receipt for delivery of the notice of default and intent to foreclose if the trustee made a good faith effort to properly ascertain that the obligor signed the return receipt as required.

The bill provides that mediation, a settlement conference, or any other effort to resolve a foreclosure is not required once a default in a judicial foreclosure of an assessment lien or mortgage lien has been issued.

B. SECTION DIRECTORY:

Section 1: Amends s. 721.07, F.S., relating to public offering statement.

Section 2: Amends s. 72.075, F.S., relating to incidental benefits.

Section 3: Amends s. 721.10, F.S., relating to cancellation.

Section 4: Amends s. 721.11, F.S., relating to advertising materials; oral statements.

Section 5: Amends s. 721.125, F.S., relating to termination of timeshare plans.

Section 6: Amends s. 721.13, F.S., relating to management.

Section 7: Amends s. 721.131, F.S., relating to managing entity emergency powers.

Section 8: Amends s. 721.55, F.S., relating to multisite timeshare plan public offering statement.

Section 9: Amends s. 721.551, F.S., relating to delivery of multisite timeshare plan purchaser public offering statement.

Section 10: Amends s. 721.82, F.S., relating to definitions.

Section 11: Amends s. 721.855, F.S., relating to procedure for the trustee foreclosure of assessment liens.

Section 12: Amends s. 721.856, F.S., relating to procedure for the trustee foreclosure of mortgage liens.

Section 13: Amends s. 721.86, F.S., relating to miscellaneous provisions.

Section 14: Amends s. 721.09, F.S., relating to reservation agreements; escrows.

Section 15: Reenacting s. 721.111, F.S., relating to prize and gift promotional offers.

Section 16: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Division of Florida Condominiums, Timeshares, and Mobile Homes to prescribe by rule a specified form on which a purchaser must select the manner in which he or she wants the approved purchaser public offering statement delivered.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES