

Amendment No.

CHAMBER ACTION

Senate

House

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Representatives Eagle and Mayfield offered the following:

**Amendment (with title amendment)**

Remove lines 451-707 and insert:

successor. The predecessor in interest or his or her agent, or a person providing resale transfer services for the predecessor in interest pursuant to s. 721.17(3) or his or her agent, shall deliver to ~~provide~~ the managing entity ~~with~~ a copy of the recorded deed of conveyance if the interest is a timeshare estate or a copy of the instrument of transfer if the interest is a timeshare license, with ~~containing~~ the name and mailing address of the successor in interest within 15 days after the date of transfer, and after such delivery the successor in interest shall be listed by the managing entity as the owner of the timeshare interest on the books and records of the timeshare plan. The managing entity shall not be liable to any person for

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17 any inaccuracy in the books and records of the timeshare plan  
18 arising from the failure of the predecessor in interest to  
19 timely and correctly notify the managing entity of the name and  
20 mailing address of the successor in interest.

21 (b) Within 30 days after receiving a written request from  
22 a timeshare interest owner, an agent designated in writing by  
23 the timeshare interest owner, or a person providing resale  
24 transfer services for a consumer timeshare reseller pursuant to  
25 s. 721.17(3), a managing entity must provide a certificate,  
26 signed by an officer or agent of the managing entity, to the  
27 person requesting the certificate, that states the amount of any  
28 assessment, transfer fee, or other moneys currently owed to the  
29 managing entity, and of any assessment, transfer fee, or other  
30 moneys approved by the managing entity that will be due within  
31 the next 90 days, with respect to the designated consumer resale  
32 timeshare interest, as well as any information contained in the  
33 books and records of the timeshare plan regarding the legal  
34 description and use plan related to the designated consumer  
35 resale timeshare interest.

36 1. A person who relies upon such certificate shall be  
37 protected thereby.

38 2. A summary proceeding pursuant to s. 51.011 may be  
39 brought to compel compliance with this paragraph, and in such an  
40 action the prevailing party may recover reasonable attorney fees  
41 and court costs.

42 3. The managing entity may charge a fee not to exceed \$150  
43 for the preparation and delivery of the certificate. The amount  
44 of the fee must be included on the certificate.

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45 Section 5. Section 721.17, Florida Statutes, is amended to  
46 read:

47 721.17 Transfer of interest; resale transfer agreements.-

48 (1) Except in the case of a timeshare plan subject to the  
49 provisions of chapter 718 or chapter 719, no developer, owner of  
50 the underlying fee, or owner of the underlying personal property  
51 shall sell, lease, assign, mortgage, or otherwise transfer his  
52 or her interest in the accommodations and facilities of the  
53 timeshare plan except by an instrument evidencing the transfer  
54 recorded in the public records of the county in which such  
55 accommodations and facilities are located or, with respect to  
56 personal property timeshare plans, in full compliance with s.  
57 721.08. The instrument shall be executed by both the transferor  
58 and transferee and shall state:

59 (a)~~(1)~~ That its provisions are intended to protect the  
60 rights of all purchasers of the plan.

61 (b)~~(2)~~ That its terms may be enforced by any prior or  
62 subsequent timeshare purchaser so long as that purchaser is not  
63 in default of his or her obligations.

64 (c)~~(3)~~ That so long as a purchaser remains in good  
65 standing with respect to her or his obligations under the  
66 timeshare instrument, including making all payments to the  
67 managing entity required by the timeshare instrument with  
68 respect to the annual common expenses of the timeshare plan, the  
69 transferee shall honor all rights of such purchaser relating to  
70 the subject accommodation or facility as reflected in the  
71 timeshare instrument.

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72 (d)~~(4)~~ That the transferee will fully honor all rights of  
73 timeshare purchasers to cancel their contracts and receive  
74 appropriate refunds.

75 (e)~~(5)~~ That the obligations of the transferee under such  
76 instrument will continue to exist despite any cancellation or  
77 rejection of the contracts between the developer and purchaser  
78 arising out of bankruptcy proceedings.

79 (2) Should any transfer of the interest of the developer,  
80 the owner of the underlying fee, or the owner of the underlying  
81 property occur in a manner which is not in compliance with  
82 subsection (1) ~~this section~~, the terms set forth in subsection  
83 (1) ~~this section~~ shall be presumed to be a part of the transfer  
84 and shall be deemed to be included in the instrument of  
85 transfer. Notice shall be mailed to each purchaser of record  
86 within 30 days after the transfer unless such transfer does not  
87 affect the purchaser's rights in or use of the timeshare plan.  
88 Persons who hold mortgages or liens on the property constituting  
89 a timeshare plan before the filed public offering statement of  
90 such plan is approved by the division shall not be considered  
91 transferees for the purposes of subsection (1) ~~this section~~.

92 (3) (a) In the course of offering timeshare interest  
93 transfer services, no person shall:

94 1. Engage in any timeshare interest transfer services for  
95 consideration, or the expectation of receiving consideration,  
96 without first obtaining a written resale transfer agreement  
97 signed by the consumer timeshare reseller that complies with  
98 this subsection.

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99       2. Fail to provide both the consumer timeshare reseller  
100 and the escrow agent required by paragraph (c) with an executed  
101 copy of the resale transfer agreement.

102       3. Fail to comply with the requirements of paragraphs (b)  
103 and (c).

104       (b) Each resale transfer agreement shall contain:

105       1. A statement that no fee, cost, or other compensation  
106 may be paid to the person providing the timeshare resale  
107 transfer services before the delivery to the consumer timeshare  
108 reseller of written evidence that all promised timeshare  
109 interest transfer services have been performed, including, but  
110 not limited to, delivery to both the consumer timeshare reseller  
111 and the timeshare plan managing entity of a copy of the recorded  
112 instrument or other legal document evidencing the transfer of  
113 ownership of or legal title to the consumer resale timeshare  
114 interest to the transferee, accompanied by the full name,  
115 address, and other known contact information for the transferee.

116       2. The name, address, current phone number, and current e-  
117 mail address of the escrow agent required by paragraph (c).

118       3. A statement that the person providing the timeshare  
119 resale transfer services will provide the consumer timeshare  
120 reseller with written notice of the full performance of the  
121 timeshare resale transfer services, together with a copy of the  
122 recorded instrument or other legal document evidencing the  
123 transfer of ownership of or legal title to the consumer resale  
124 timeshare interest from the consumer timeshare reseller to a  
125 transferee.

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126 4. A statement in substantially the following form in  
127 conspicuous type immediately preceding the space in the resale  
128 transfer agreement provided for the consumer timeshare  
129 reseller's signature:

130  
131 ...(Name)... has agreed to provide you with timeshare  
132 resale transfer services pursuant to this resale  
133 transfer agreement. After those services have been  
134 fully performed, ...(Name)... is obligated to provide  
135 you with written notice of such full performance and a  
136 copy of the recorded instrument or other legal  
137 document evidencing the transfer of ownership of or  
138 legal title to the consumer resale timeshare interest  
139 to the transferee. Any fee or other compensation paid  
140 by you under this agreement before such full  
141 performance by ...(Name)... must be held in escrow by  
142 the escrow agent specified in this agreement, and  
143 ...(Name)... is prohibited from receiving any such fee  
144 or other compensation until all promised timeshare  
145 interest transfer services have been performed.

146  
147 (c)1. Before entering into any resale transfer agreement,  
148 a person providing timeshare resale transfer services shall  
149 establish an escrow account with an escrow agent for the purpose  
150 of protecting the funds or other property of consumer timeshare  
151 resellers required to be escrowed by this subsection. An  
152 attorney who is a member in good standing of The Florida Bar, a  
153 licensed Florida real estate broker in good standing, or a

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154 licensed Florida title insurer or agent in good standing, any of  
155 whom also provides timeshare interest transfer services as  
156 described in this subsection, may serve as escrow agent under  
157 this subsection. The escrow agent shall maintain the escrow  
158 account only in such a manner as to be under the direct  
159 supervision and control of the escrow agent. The escrow agent  
160 shall have a fiduciary duty to each consumer timeshare reseller  
161 to maintain the escrow account in accordance with good  
162 accounting practices and to release the consumer timeshare  
163 reseller's funds or other property from escrow only in  
164 accordance with this subsection.

165 2. All funds or other property that are received from or  
166 on behalf of a consumer timeshare reseller pursuant to a resale  
167 transfer agreement shall be deposited into an escrow account  
168 pursuant to this paragraph. A fee, cost, or other compensation  
169 that is due or that will be paid to the person providing the  
170 timeshare resale transfer services must be held in such escrow  
171 account until the person providing the timeshare resale transfer  
172 services has fully complied with all of his or her obligations  
173 under the resale transfer agreement and under this subsection.

174 3. The funds or other property required to be escrowed  
175 pursuant to this paragraph may only be released from escrow as  
176 follows:

177 a. On the order of the person providing the timeshare  
178 resale transfer services upon presentation of an affidavit by  
179 the person that all promised timeshare interest transfer  
180 services have been performed, including delivery to both the  
181 consumer timeshare reseller and the timeshare plan managing

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182 entity of a copy of the recorded instrument or other legal  
183 document evidencing the transfer of ownership of or legal title  
184 to the consumer resale timeshare interest to the transferee.

185 b. To a managing entity to pay any assessments, transfer  
186 fees, or other moneys owed with respect to the consumer resale  
187 timeshare interest as set forth in the certificate provided for  
188 in s. 721.15(7) (b) or to pay a governmental agency for the  
189 purpose of completing and perfecting the transfer. A managing  
190 entity shall accept any funds remitted to it by an escrow agent  
191 pursuant to this sub-subparagraph.

192 4. The escrow agent shall retain all resale transfer  
193 agreements, escrow account records, and affidavits received  
194 pursuant to this subsection for a period of 5 years.

195 (d) A person providing timeshare resale transfer services,  
196 an agent or third party service provider for the timeshare  
197 resale transfer services provider, or an escrow agent who  
198 intentionally fails to comply with the provisions of this  
199 subsection concerning the establishment of an escrow account,  
200 deposits of funds into escrow, withdrawal therefrom, and  
201 maintenance of records is guilty of a felony of the third  
202 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
203 775.084.

204 (e) No person shall participate, for consideration or with  
205 the expectation of consideration, in a plan or scheme, a purpose  
206 of which is to transfer a consumer resale timeshare interest to  
207 a transferee that the person knows does not have the ability,  
208 means, or intent to pay all assessments and taxes associated  
209 with the consumer resale timeshare interest.

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210 (f) Providing timeshare interest transfer services with  
211 respect to a consumer resale timeshare interest in a timeshare  
212 property located or offered within this state, or in a multisite  
213 timeshare plan registered or required to be registered to be  
214 offered in this state, including acting as an agent or third-  
215 party service provider for a resale service provider,  
216 constitutes operating, conducting, engaging in, or carrying on a  
217 business or business venture in this state for the purposes of  
218 s. 48.193(1).

219 (g) A managing entity may bring an action to enforce the  
220 provisions of paragraph (e). In any such action, the managing  
221 entity may recover its actual damages, and the prevailing party  
222 may recover its reasonable attorney fees and court costs.

223 (h) Paragraphs (a)–(d) do not apply to:

224 1. A resale broker who offers timeshare interest transfer  
225 services to a consumer timeshare reseller, so long as the resale  
226 broker complies in all respects with chapter 475 and with s.  
227 721.20; or

228 2. An attorney who is a member in good standing of The  
229 Florida Bar or a licensed Florida title insurer or agent in good  
230 standing who offers timeshare interest transfer services to a  
231 consumer timeshare reseller, if the total consideration paid by  
232 the consumer timeshare reseller to such person does not exceed  
233 \$600, exclusive of any assessments, transfer fees, or moneys  
234 owed with respect to the consumer resale timeshare interest as  
235 set forth in the certificate provided for in s.721.15(7) (b), and  
236 exclusive of any fees owed to a governmental agency for the  
237 purpose of completing and perfecting the transfer.

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238 | (i) This subsection does not

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**T I T L E   A M E N D M E N T**

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Remove line 10 and insert:

243

timeshare plans; amending s. 721.15, F.S.; requiring

244

the successor in interest to be listed as the owner of

245

the timeshare interest under certain conditions;

246

requiring