

By Senator Constantine

9-1443-02

See HB

1                                   A bill to be entitled  
2           An act relating to timeshares; amending s.  
3           721.13, F.S.; authorizing the managing entity  
4           of a timeshare to allocate net rental proceeds  
5           in any reasonable manner with respect to a  
6           specific timeshare under certain circumstances;  
7           authorizing the managing entity to rent certain  
8           units to a developer at a bulk rate; amending  
9           s. 721.15, F.S.; revising language with respect  
10          to assessments for common expenses; providing  
11          an effective date.

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

15           Section 1. Paragraph (f) of subsection (6) of section  
16          721.13, Florida Statutes, is amended to read:

17           721.13 Management.--

18           (6)

19           (f)1. Provided that the managing entity has properly  
20          and timely given notice to a delinquent purchaser pursuant to  
21          paragraph (b) and to any affiliated exchange program pursuant  
22          to paragraph (c), the managing entity may give further notice  
23          to the delinquent purchaser that it may rent the delinquent  
24          purchaser's timeshare period, or any use rights appurtenant  
25          thereto, and will apply the proceeds of such rental, net of  
26          any rental commissions, cleaning charges, travel agent  
27          commissions, or any other commercially reasonable charges  
28          reasonably and usually incurred by the managing entity in  
29          securing rentals, to the delinquent purchaser's account. Such  
30          further notice of intent to rent must be given at least 30  
31          days prior to the first day of the purchaser's use period, and

1 must be delivered to the purchaser in the manner required for  
2 notices under paragraph (b). A managing entity may make a  
3 reasonable determination regarding the priority of rentals of  
4 timeshare periods to be rented pursuant to this paragraph and,  
5 in the event that the delinquent purchaser of a timeshare  
6 period rented pursuant to this paragraph cannot be  
7 specifically determined due to the structure of the timeshare  
8 plan, allocate such net rental proceeds by the managing entity  
9 in any reasonable manner.

10           2. The notice of intent to rent, which may be included  
11 in the notice required by paragraph (b), must state in  
12 conspicuous type that:

13           a. The managing entity's efforts to secure a rental  
14 will not commence on a date earlier than 10 days after the  
15 date of the notice of intent to rent.

16           b. Unless the purchaser satisfies the delinquency in  
17 full, or unless the purchaser produces satisfactory evidence  
18 that the delinquency does not exist pursuant to paragraph (b),  
19 the purchaser will be bound by the terms of any rental  
20 contract entered into by the managing entity with respect to  
21 the purchaser's timeshare period or appurtenant use rights.

22           c. The purchaser will remain liable for any difference  
23 between the amount of the delinquency and the net amount  
24 produced by the rental contract and applied against the  
25 delinquency pursuant to this paragraph, and the managing  
26 entity shall not be required to provide any further notice to  
27 the purchaser regarding any residual delinquency pursuant to  
28 this paragraph.

29           3. In securing a rental pursuant to this paragraph,  
30 the managing entity shall not be required to obtain the  
31 highest nightly rental rate available, nor any particular

1 rental rate, and the managing entity shall not be required to  
2 rent the entire timeshare period; however, the managing entity  
3 must use reasonable efforts to secure a rental that is  
4 commensurate with other rentals of similar timeshare periods  
5 or use rights generally secured at that time. Alternatively,  
6 the managing entity may rent such units to the developer at a  
7 bulk rate that is below the rate described above but not less  
8 than \$200 per week, which amount may be prorated for daily  
9 rentals.

10 Section 2. Subsection (3) of section 721.15, Florida  
11 Statutes, is amended to read:

12 721.15 Assessments for common expenses.--

13 (3) Delinquent assessments may bear interest at the  
14 highest rate permitted by law or at some lesser rate  
15 established by the managing entity. In addition to such  
16 interest, the managing entity may charge an administrative  
17 late fee in an amount not to exceed \$25 for each delinquent  
18 assessment. ~~Provided that a purchaser has been advised in~~  
19 ~~writing at least 60 days prior to turning the matter over to a~~  
20 ~~collection agency that the purchaser may be liable for the~~  
21 ~~fees of the collection agency and a lien may result therefrom,~~  
22 Any costs of collection, including reasonable collection  
23 agency fees and reasonable attorney's fees, incurred in the  
24 collection of a delinquent assessment shall be paid by the  
25 purchaser and shall be secured by a lien in favor of the  
26 managing entity upon the timeshare interest with respect to  
27 which the delinquent assessment has been incurred; provided,  
28 however, in the event a managing entity turns the matter over  
29 to a collection agency, the managing entity must advise the  
30 purchaser at least 60 days prior to turning the matter over to

31

1 a collection agency that the purchaser may be liable for the  
2 fees of the collection agency and a lien may result therefrom.

3 Section 3. This act shall take effect upon becoming a  
4 law.

5  
6 \*\*\*\*\*

7 HOUSE SUMMARY

8  
9 Revises provisions of law governing timeshares to  
10 authorize managing entities to allocate net rental  
11 proceeds in any reasonable manner with respect to  
12 delinquent purchasers of described timeshares. Authorizes  
13 the managing entity to rent certain units to a developer  
14 at bulk rates under described circumstances.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31