

By the Committee on Regulated Industries; and Senator  
Constantine

315-2130-02

1                                   A bill to be entitled  
2           An act relating to timeshares; amending s.  
3           721.111, F.S.; increasing the number of  
4           allowable promotional prizes which may be made  
5           available annually; amending s. 721.13, F.S.;  
6           authorizing the managing entity of a timeshare  
7           to allocate net rental proceeds in any  
8           reasonable manner with respect to a specific  
9           timeshare under certain circumstances;  
10          authorizing the managing entity to rent certain  
11          units to a developer at a bulk rate; amending  
12          s. 721.15, F.S.; revising a provision with  
13          respect to assessments for common expenses;  
14          providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Subsection (2) of section 721.111, Florida  
19 Statutes, is amended to read:

20           721.111 Prize and gift promotional offers.--  
21           (2) A game promotion, such as a contest of chance,  
22 gift enterprise, or sweepstakes, in which the elements of  
23 chance and prize are present may not be used in connection  
24 with the offering or sale of timeshare interests, except for  
25 drawings, as that term is defined in s. 849.0935(1)(a), in  
26 which no more than 26 ~~10~~ prizes are promoted and in which all  
27 promoted prizes are actually awarded. All such drawings must  
28 meet all requirements of this chapter and of ss. 849.092 and  
29 849.094(1), (2), and (7).

30           Section 2. Paragraph (f) of subsection (6) of section  
31 721.13, Florida Statutes, is amended to read:

1           721.13 Management.--

2           (6)

3           (f)1. Provided that the managing entity has properly  
4 and timely given notice to a delinquent purchaser pursuant to  
5 paragraph (b) and to any affiliated exchange program pursuant  
6 to paragraph (c), the managing entity may give further notice  
7 to the delinquent purchaser that it may rent the delinquent  
8 purchaser's timeshare period, or any use rights appurtenant  
9 thereto, and will apply the proceeds of such rental, net of  
10 any rental commissions, cleaning charges, travel agent  
11 commissions, or any other commercially reasonable charges  
12 reasonably and usually incurred by the managing entity in  
13 securing rentals, to the delinquent purchaser's account. Such  
14 further notice of intent to rent must be given at least 30  
15 days prior to the first day of the purchaser's use period, and  
16 must be delivered to the purchaser in the manner required for  
17 notices under paragraph (b). A managing entity may make a  
18 reasonable determination regarding the priority of rentals of  
19 timeshare periods to be rented pursuant to this paragraph and,  
20 in the event that the delinquent purchaser of a timeshare  
21 period rented pursuant to this paragraph cannot be  
22 specifically determined due to the structure of the timeshare  
23 plan, may allocate such net rental proceeds by the managing  
24 entity in any reasonable manner.

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

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

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1           b. Unless the purchaser satisfies the delinquency in  
2 full, or unless the purchaser produces satisfactory evidence  
3 that the delinquency does not exist pursuant to paragraph (b),  
4 the purchaser will be bound by the terms of any rental  
5 contract entered into by the managing entity with respect to  
6 the purchaser's timeshare period or appurtenant use rights.

7           c. The purchaser will remain liable for any difference  
8 between the amount of the delinquency and the net amount  
9 produced by the rental contract and applied against the  
10 delinquency pursuant to this paragraph, and the managing  
11 entity shall not be required to provide any further notice to  
12 the purchaser regarding any residual delinquency pursuant to  
13 this paragraph.

14           3. In securing a rental pursuant to this paragraph,  
15 the managing entity shall not be required to obtain the  
16 highest nightly rental rate available, nor any particular  
17 rental rate, and the managing entity shall not be required to  
18 rent the entire timeshare period; however, the managing entity  
19 must use reasonable efforts to secure a rental that is  
20 commensurate with other rentals of similar timeshare periods  
21 or use rights generally secured at that time. Alternatively,  
22 the managing entity may rent such units at a bulk rate that is  
23 below the rate described above but not less than \$200 per  
24 week, which amount may be prorated for daily rentals.

25           Section 3. Subsection (3) of section 721.15, Florida  
26 Statutes, is amended to read:

27           721.15 Assessments for common expenses.--

28           (3) Delinquent assessments may bear interest at the  
29 highest rate permitted by law or at some lesser rate  
30 established by the managing entity. In addition to such  
31 interest, the managing entity may charge an administrative

1 late fee in an amount not to exceed \$25 for each delinquent  
2 assessment. ~~Provided that a purchaser has been advised in~~  
3 ~~writing at least 60 days prior to turning the matter over to a~~  
4 ~~collection agency that the purchaser may be liable for the~~  
5 ~~fees of the collection agency and a lien may result therefrom,~~  
6 Any costs of collection, including reasonable collection  
7 agency fees and reasonable attorney's fees, incurred in the  
8 collection of a delinquent assessment shall be paid by the  
9 purchaser and shall be secured by a lien in favor of the  
10 managing entity upon the timeshare interest with respect to  
11 which the delinquent assessment has been incurred; however, in  
12 the event that a managing entity turns the matter over to a  
13 collection agency, the managing entity must advise the  
14 purchaser at least 60 days prior to turning the matter over to  
15 the collection agency that the purchaser may be liable for the  
16 fees of the collection agency and that a lien may result  
17 therefrom.

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

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
22 COMMITTEE SUBSTITUTE FOR  
23 SB 2252

24 The Committee Substitute:

25 -Allows the managing entity to rent delinquent units at a bulk  
26 rate to any entity, not just the developer.

27 -Adds provisions increasing the number of prizes a timeshare  
28 developer may offer in a drawing in connection with offering  
29 or selling timeshare interests from 10 to 26.  
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