

By Senator Stargel

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1                   A bill to be entitled  
2           An act relating to vacation and time share plans;  
3           amending s. 718.112, F.S.; exempting associations that  
4           govern a timeshare condominium from the prohibition of  
5           using proxies for electing members of the board;  
6           amending s. 721.07, F.S.; revising the formula to  
7           calculate the reserves for any accommodations and  
8           facilities of real property time share plans; amending  
9           s. 721.82, F.S.; revising the definition of the terms  
10          "notice address," "obligor," and "permitted delivery  
11          service"; amending s. 721.84, F.S.; making technical  
12          changes; amending s. 721.855, F.S.; removing a  
13          provision that requires a title search to accompany  
14          the affidavit initiating a trustee foreclosure  
15          proceeding of assessment liens; revising conditions to  
16          a trustee's exercise of power of sale relating to lis  
17          pendens; providing that a trustee may sell a timeshare  
18          interest if the lienholder delivers a certain title  
19          search which identifies junior interestholders of  
20          record; providing conditions when the foreclosure may  
21          not proceed; removing reference to an alternative to  
22          first-class mail for service of notice; revising  
23          criteria when notice of a foreclosure proceeding is  
24          not perfected; revising the criteria for perfecting  
25          notice of foreclosure by publication in a newspaper;  
26          revising criteria that must be included in an  
27          affidavit certifying notice was perfected by  
28          publication; providing additional criteria for  
29          perfecting notice; providing the notice of sale has

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30 certain force and effect if a notice of lis pendens  
31 was not previously recorded; allowing a trustee under  
32 certain conditions to use a third party to conduct a  
33 sale; providing a trustee an exception for certain  
34 violations of the trustee foreclosure procedures of  
35 assessment liens; amending s. 721.856, F.S.; removing  
36 a provision that requires a title search to accompany  
37 the affidavit initiating a trustee foreclosure  
38 proceeding of mortgage liens; revising conditions to a  
39 trustee's exercise of power of sale relating to lis  
40 pendens; providing that a trustee may sell a timeshare  
41 interest if the lienholder delivers a certain title  
42 search which identifies junior interestholders of  
43 record; providing conditions when the foreclosure may  
44 not proceed; removing reference to an alternative to  
45 first-class mail for service of notice; revising  
46 criteria when notice of a foreclosure proceeding is  
47 not perfected; revising the criteria for perfecting  
48 notice of foreclosure by publication in a newspaper;  
49 revising criteria that must be included in an  
50 affidavit certifying notice was perfected by  
51 publication; providing additional criteria for  
52 perfecting notice; providing the notice of sale has  
53 certain force and effect if a notice of lis pendens  
54 was not previously recorded; allowing a trustee under  
55 certain conditions to use a third party to conduct a  
56 sale; providing a trustee an exception for certain  
57 violations of the trustee foreclosure procedures of  
58 mortgage liens; providing an effective date.

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59  
60 Be It Enacted by the Legislature of the State of Florida:

61  
62 Section 1. Paragraph (d) of subsection (2) of section  
63 718.112, Florida Statutes, is amended to read:

64 718.112 Bylaws.—

65 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the  
66 following and, if they do not do so, shall be deemed to include  
67 the following:

68 (d) *Unit owner meetings.*—

69 1. An annual meeting of the unit owners must ~~shall~~ be held  
70 at the location provided in the association bylaws and, if the  
71 bylaws are silent as to the location, the meeting must ~~shall~~ be  
72 held within 45 miles of the condominium property. However, such  
73 distance requirement does not apply to an association governing  
74 a timeshare condominium.

75 2. Unless the bylaws provide otherwise, a vacancy on the  
76 board caused by the expiration of a director's term must ~~shall~~  
77 be filled by electing a new board member, and the election must  
78 be by secret ballot. An election is not required if the number  
79 of vacancies equals or exceeds the number of candidates. For  
80 purposes of this paragraph, the term "candidate" means an  
81 eligible person who has timely submitted the written notice, as  
82 described in sub-subparagraph 4.a., of his or her intention to  
83 become a candidate. Except in a timeshare condominium, or if the  
84 staggered term of a board member does not expire until a later  
85 annual meeting, or if all members' terms would otherwise expire  
86 but there are no candidates, the terms of all board members  
87 expire at the annual meeting, and such members may stand for

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88 reelection unless prohibited by the bylaws. If the bylaws permit  
89 staggered terms of no more than 2 years and upon approval of a  
90 majority of the total voting interests, the association board  
91 members may serve 2-year staggered terms. If the number of board  
92 members whose terms expire at the annual meeting equals or  
93 exceeds the number of candidates, the candidates become members  
94 of the board effective upon the adjournment of the annual  
95 meeting. Unless the bylaws provide otherwise, any remaining  
96 vacancies shall be filled by the affirmative vote of the  
97 majority of the directors making up the newly constituted board  
98 even if the directors constitute less than a quorum or there is  
99 only one director. In a condominium association of more than 10  
100 units or in a condominium association that does not include  
101 timeshare units or timeshare interests, coowners of a unit may  
102 not serve as members of the board of directors at the same time  
103 unless they own more than one unit or unless there are not  
104 enough eligible candidates to fill the vacancies on the board at  
105 the time of the vacancy. Any unit owner who desires ~~desiring~~ to  
106 be a candidate for board membership must comply with sub-  
107 subparagraph 4.a. and must be eligible to serve on the board of  
108 directors at the time of the deadline for submitting a notice of  
109 intent to run in order to have his or her name listed as a  
110 proper candidate on the ballot or to serve on the board. A  
111 person who has been suspended or removed by the division under  
112 this chapter, or who is delinquent in the payment of any fee,  
113 fine, or special or regular assessment as provided in paragraph  
114 (n), is not eligible for board membership. A person who has been  
115 convicted of any felony in this state or in a United States  
116 District or Territorial Court, or who has been convicted of any

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117 offense in another jurisdiction which would be considered a  
118 felony if committed in this state, is not eligible for board  
119 membership unless such felon's civil rights have been restored  
120 for at least 5 years before ~~as of~~ the date such person seeks  
121 election to the board. The validity of an action by the board is  
122 not affected if it is later determined that a board member is  
123 ineligible for board membership due to having been convicted of  
124 a felony.

125         3. The bylaws must provide the method of calling meetings  
126 of unit owners, including annual meetings. Written notice must  
127 include an agenda, must be mailed, hand delivered, or  
128 electronically transmitted to each unit owner at least 14 days  
129 before the annual meeting, and must be posted in a conspicuous  
130 place on the condominium property at least 14 continuous days  
131 before the annual meeting. Upon notice to the unit owners, the  
132 board shall, by duly adopted rule, designate a specific location  
133 on the condominium property or association property where all  
134 notices of unit owner meetings shall be posted. This requirement  
135 does not apply if there is no condominium property or  
136 association property for posting notices. In lieu of, or in  
137 addition to, the physical posting of meeting notices, the  
138 association may, by reasonable rule, adopt a procedure for  
139 conspicuously posting and repeatedly broadcasting the notice and  
140 the agenda on a closed-circuit cable television system serving  
141 the condominium association. However, if broadcast notice is  
142 used, the notice and agenda must be broadcast at least four  
143 times every broadcast hour of each day that a posted notice is  
144 otherwise required under this section. If broadcast notice is  
145 provided, the notice and agenda must be broadcast in a manner

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146 and for a sufficient continuous length of time so as to allow an  
147 average reader to observe the notice and read and comprehend the  
148 entire content of the notice and the agenda. Unless a unit owner  
149 waives in writing the right to receive notice of the annual  
150 meeting, such notice must be hand delivered, mailed, or  
151 electronically transmitted to each unit owner. Notice for  
152 meetings and notice for all other purposes must be mailed to  
153 each unit owner at the address last furnished to the association  
154 by the unit owner, or hand delivered to each unit owner.  
155 However, if a unit is owned by more than one person, the  
156 association must provide notice to the address that the  
157 developer identifies for that purpose and thereafter as one or  
158 more of the owners of the unit advise the association in  
159 writing, or if no address is given or the owners of the unit do  
160 not agree, to the address provided on the deed of record. An  
161 officer of the association, or the manager or other person  
162 providing notice of the association meeting, must provide an  
163 affidavit or United States Postal Service certificate of  
164 mailing, to be included in the official records of the  
165 association affirming that the notice was mailed or hand  
166 delivered in accordance with this provision.

167 4. The members of the board shall be elected by written  
168 ballot or voting machine. Proxies may not be used in electing  
169 the board in general elections or elections to fill vacancies  
170 caused by recall, resignation, or otherwise, unless otherwise  
171 provided in this chapter. This subparagraph does not apply to an  
172 association governing a timeshare condominium.

173 a. At least 60 days before a scheduled election, the  
174 association shall mail, deliver, or electronically transmit, by

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175 separate association mailing or included in another association  
176 mailing, delivery, or transmission, including regularly  
177 published newsletters, to each unit owner entitled to a vote, a  
178 first notice of the date of the election. Any unit owner or  
179 other eligible person desiring to be a candidate for the board  
180 must give written notice of his or her intent to be a candidate  
181 to the association at least 40 days before a scheduled election.  
182 Together with the written notice and agenda as set forth in  
183 subparagraph 3., the association shall mail, deliver, or  
184 electronically transmit a second notice of the election to all  
185 unit owners entitled to vote, together with a ballot that lists  
186 all candidates. Upon request of a candidate, an information  
187 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
188 furnished by the candidate at least 35 days before the election,  
189 must be included with the mailing, delivery, or transmission of  
190 the ballot, with the costs of mailing, delivery, or electronic  
191 transmission and copying to be borne by the association. The  
192 association is not liable for the contents of the information  
193 sheets prepared by the candidates. In order to reduce costs, the  
194 association may print or duplicate the information sheets on  
195 both sides of the paper. The division shall by rule establish  
196 voting procedures consistent with this sub-subparagraph,  
197 including rules establishing procedures for giving notice by  
198 electronic transmission and rules providing for the secrecy of  
199 ballots. Elections must ~~shall~~ be decided by a plurality of  
200 ballots cast. There is no quorum requirement; however, at least  
201 20 percent of the eligible voters must cast a ballot in order to  
202 have a valid election. A unit owner may not permit any other  
203 person to vote his or her ballot, and any ballots improperly

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204 cast are invalid. A unit owner who violates this provision may  
205 be fined by the association in accordance with s. 718.303. A  
206 unit owner who needs assistance in casting the ballot for the  
207 reasons stated in s. 101.051 may obtain such assistance. The  
208 regular election must occur on the date of the annual meeting.  
209 Notwithstanding this sub-subparagraph, an election is not  
210 required unless more candidates file notices of intent to run or  
211 are nominated than board vacancies exist.

212       b. Within 90 days after being elected or appointed to the  
213 board, each newly elected or appointed director shall certify in  
214 writing to the secretary of the association that he or she has  
215 read the association's declaration of condominium, articles of  
216 incorporation, bylaws, and current written policies; that he or  
217 she will work to uphold such documents and policies to the best  
218 of his or her ability; and that he or she will faithfully  
219 discharge his or her fiduciary responsibility to the  
220 association's members. In lieu of this written certification,  
221 within 90 days after being elected or appointed to the board,  
222 the newly elected or appointed director may submit a certificate  
223 of having satisfactorily completed the educational curriculum  
224 administered by a division-approved condominium education  
225 provider within 1 year before or 90 days after the date of  
226 election or appointment. The written certification or  
227 educational certificate is valid and does not have to be  
228 resubmitted as long as the director serves on the board without  
229 interruption. A director who fails to timely file the written  
230 certification or educational certificate is suspended from  
231 service on the board until he or she complies with this sub-  
232 subparagraph. The board may temporarily fill the vacancy during



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233 the period of suspension. The secretary shall cause the  
234 association to retain a director's written certification or  
235 educational certificate for inspection by the members for 5  
236 years after a director's election. Failure to have such written  
237 certification or educational certificate on file does not affect  
238 the validity of any board action.

239 5. Any approval by unit owners called for by this chapter  
240 or the applicable declaration or bylaws, including, but not  
241 limited to, the approval requirement in s. 718.111(8), must be  
242 made at a duly noticed meeting of unit owners and is subject to  
243 all requirements of this chapter or the applicable condominium  
244 documents relating to unit owner decisionmaking, except that  
245 unit owners may take action by written agreement, without  
246 meetings, on matters for which action by written agreement  
247 without meetings is expressly allowed by the applicable bylaws  
248 or declaration or any law that provides for such action.

249 6. Unit owners may waive notice of specific meetings if  
250 allowed by the applicable bylaws or declaration or any law. If  
251 authorized by the bylaws, notice of meetings of the board of  
252 administration, unit owner meetings, except unit owner meetings  
253 called to recall board members under paragraph (j), and  
254 committee meetings may be given by electronic transmission to  
255 unit owners who consent to receive notice by electronic  
256 transmission.

257 7. Unit owners have the right to participate in meetings of  
258 unit owners with reference to all designated agenda items.  
259 However, the association may adopt reasonable rules governing  
260 the frequency, duration, and manner of unit owner participation.

261 8. A unit owner may tape record or videotape a meeting of

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262 the unit owners subject to reasonable rules adopted by the  
263 division.

264 9. Unless otherwise provided in the bylaws, any vacancy  
265 occurring on the board before the expiration of a term may be  
266 filled by the affirmative vote of the majority of the remaining  
267 directors, even if the remaining directors constitute less than  
268 a quorum, or by the sole remaining director. In the alternative,  
269 a board may hold an election to fill the vacancy, in which case  
270 the election procedures must conform to sub-subparagraph 4.a.  
271 unless the association governs 10 units or fewer and has opted  
272 out of the statutory election process, in which case the bylaws  
273 of the association control. Unless otherwise provided in the  
274 bylaws, a board member appointed or elected under this section  
275 must ~~shall~~ fill the vacancy for the unexpired term of the seat  
276 being filled. Filling vacancies created by recall is governed by  
277 paragraph (j) and rules adopted by the division.

278 10. This chapter does not limit the use of general or  
279 limited proxies, require the use of general or limited proxies,  
280 or require the use of a written ballot or voting machine for any  
281 agenda item or election at any meeting of a timeshare  
282 condominium association.

283  
284 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
285 association of 10 or fewer units may, by affirmative vote of a  
286 majority of the total voting interests, provide for different  
287 voting and election procedures in its bylaws, which may be by a  
288 proxy specifically delineating the different voting and election  
289 procedures. The different voting and election procedures may  
290 provide for elections to be conducted by limited or general

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291 proxy.

292 Section 2. Paragraph (t) of subsection (5) of section  
293 721.07, Florida Statutes, is amended to read:

294 721.07 Public offering statement.—Prior to offering any  
295 timeshare plan, the developer must submit a filed public  
296 offering statement to the division for approval as prescribed by  
297 s. 721.03, s. 721.55, or this section. Until the division  
298 approves such filing, any contract regarding the sale of that  
299 timeshare plan is subject to cancellation by the purchaser  
300 pursuant to s. 721.10.

301 (5) Every filed public offering statement for a timeshare  
302 plan which is not a multisite timeshare plan shall contain the  
303 information required by this subsection. The division is  
304 authorized to provide by rule the method by which a developer  
305 must provide such information to the division.

306 (t) An estimated operating budget for the timeshare plan  
307 and a schedule of the purchaser's expenses must ~~shall~~ be  
308 attached as an exhibit and must ~~shall~~ contain the following  
309 information:

310 1. The estimated annual expenses of the timeshare plan  
311 collectible from purchasers by assessments. The estimated  
312 payments by the purchaser for assessments must ~~shall~~ also be  
313 stated in the estimated amounts for the times when they will be  
314 due. Expenses must ~~shall~~ also be shown for the shortest  
315 timeshare period offered for sale by the developer. If the  
316 timeshare plan provides for the offer and sale of units to be  
317 used on a nontimeshare basis, the estimated monthly and annual  
318 expenses of such units must ~~shall~~ be set forth in a separate  
319 schedule.

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320           2. The estimated weekly, monthly, and annual expenses of  
321 the purchaser of each timeshare interest, other than assessments  
322 payable to the managing entity. Expenses which are personal to  
323 purchasers that are not uniformly incurred by all purchasers or  
324 that are not provided for or contemplated by the timeshare plan  
325 documents may be excluded from this estimate.

326           3. The estimated items of expenses of the timeshare plan  
327 and the managing entity, except as excluded under subparagraph  
328 2., including, but not limited to, if applicable, the following  
329 items, which shall be stated either as management expenses  
330 collectible by assessments or as expenses of the purchaser  
331 payable to persons other than the managing entity:

332           a. Expenses for the managing entity:

333           (I) Administration of the managing entity.

334           (II) Management fees.

335           (III) Maintenance.

336           (IV) Rent for facilities.

337           (V) Taxes upon timeshare property.

338           (VI) Taxes upon leased areas.

339           (VII) Insurance.

340           (VIII) Security provisions.

341           (IX) Other expenses.

342           (X) Operating capital.

343           (XI) Reserves for deferred maintenance and reserves for  
344 capital expenditures, including:

345           (A) Reserves for deferred maintenance or capital  
346 expenditures of accommodations and facilities of a real property  
347 timeshare plan, if any. All reserves for any accommodations and  
348 facilities of real property timeshare plans located in this

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349 state shall be calculated by using a formula which is based upon  
350 estimated life and replacement cost of each reserve item that  
351 will provide funds equal to the total estimated deferred  
352 maintenance expense or total estimated life and replacement cost  
353 for an asset or group of assets over the remaining useful life  
354 of the asset or group of assets. A funding formula for reserves  
355 must be based on either a separate analysis of each of the  
356 required assets using the straight-line accounting method or a  
357 pooled analysis of two or more of the required assets using the  
358 pooling accounting method. Reserves for deferred maintenance for  
359 such accommodations and facilities must ~~shall~~ include accounts  
360 for roof replacement, building painting, pavement resurfacing,  
361 replacement of timeshare unit furnishings and equipment, and any  
362 other component, the useful life of which is less than the  
363 useful life of the overall structure. For any accommodations and  
364 facilities of real property timeshare plans located outside of  
365 this state, the developer shall disclose the amount of reserves  
366 for deferred maintenance or capital expenditures required by the  
367 law of the situs state, if applicable, and maintained for such  
368 accommodations and facilities.

369 (B) Reserves for deferred maintenance or capital  
370 expenditures of accommodations and facilities of a personal  
371 property timeshare plan, if any. If such reserves are  
372 maintained, the estimated operating budget must ~~shall~~ disclose  
373 the methodology of how the reserves are calculated. If a  
374 personal property timeshare plan does not require reserves, the  
375 following statement, in conspicuous type, must ~~shall~~ appear in  
376 both the budget and the public offering statement:

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378 *The estimated operating budget for this personal property*  
379 *timeshare plan does not include reserves for deferred*  
380 *maintenance or capital expenditures; each timeshare interest may*  
381 *be subject to substantial special assessments from time to time*  
382 *because no such reserves exist.*

383

384 (XII) Fees payable to the division.

385 b. Expenses for a purchaser:

386 (I) Rent for the timeshare unit, if subject to a lease.

387 (II) Rent payable by the purchaser directly to the lessor  
388 or agent under any lease for the use of facilities, which use  
389 and payment is a mandatory condition of ownership and is not  
390 included in the common expenses or assessments for common  
391 maintenance paid by the purchasers to the managing entity.

392 4. The estimated amounts shall be stated for a period of at  
393 least 12 months and may distinguish between the period before  
394 ~~prior to~~ the time that purchasers elect a majority of the board  
395 of administration and the period after that date.

396 5. If the developer intends to guarantee the level of  
397 assessments, such guarantee must be based upon a good faith  
398 estimate of the revenues and expenses of the timeshare plan. The  
399 guarantee must include a description of the following:

400 a. The specific time period measured in one or more  
401 calendar or fiscal years during which the guarantee will be in  
402 effect.

403 b. A statement that the developer will pay all common  
404 expenses incurred in excess of the total revenues of the  
405 timeshare plan pursuant to s. 721.15(2) if the developer has  
406 excused himself or herself from the payment of assessments

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407 during the guarantee period.

408 c. The level, expressed in total dollars, at which the  
409 developer guarantees the budget. If the developer has reserved  
410 the right to extend or increase the guarantee level pursuant to  
411 s. 721.15(2), a disclosure must be included to that effect.

412 6. If the developer intends to provide a trust fund to  
413 defer or reduce the payment of annual assessments, a copy of the  
414 trust instrument shall be attached as an exhibit and shall  
415 include a description of such arrangement, including, but not  
416 limited to:

417 a. The specific amount of such trust funds and the source  
418 of the funds.

419 b. The name and address of the trustee.

420 c. The investment methods permitted by the trust agreement.

421 d. A statement in conspicuous type that the funds from the  
422 trust account may not cover all assessments and that there is no  
423 guarantee that purchasers will not have to pay assessments in  
424 the future.

425 7. The budget of a phase timeshare plan may contain a note  
426 identifying the number of timeshare interests covered by the  
427 budget, indicating the number of timeshare interests, if any,  
428 estimated to be declared as part of the timeshare plan during  
429 that calendar year, and projecting the common expenses for the  
430 timeshare plan based upon the number of timeshare interests  
431 estimated to be declared as part of the timeshare plan during  
432 that calendar year.

433 Section 3. Subsections (9), (10), and (11) of section  
434 721.82, Florida Statutes, are amended to read:

435 721.82 Definitions.—As used in this part, the term:

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436 (9) "Notice address" means:

437 (a) As to an assessment lien, the address of the owner of a  
438 timeshare interest as reflected by the books and records of the  
439 timeshare plan under ss. 721.13(4) and 721.15(7).

440 (b) As to a mortgage lien:

441 1. The address of the mortgagor as set forth in the  
442 mortgage, the promissory note or a separate document executed by  
443 the mortgagor at the time the mortgage lien was created, or the  
444 most current address of the mortgagor according to the records  
445 of the mortgagee; and

446 2. If the owner of the timeshare interest is different from  
447 the mortgagor, the address of the owner of the timeshare  
448 interest as reflected by the books and records of the mortgagee.

449 (c) As to a junior interestholder, the address as set forth  
450 in the recorded instrument creating the junior lien or interest,  
451 or in any recorded amendment thereto changing the address, or in  
452 any written notification by the junior interestholder to the  
453 foreclosing lienholder changing the address.

454 (d) As to an owner of a timeshare interest, mortgagor, or  
455 junior interestholder whose current address is not the address  
456 as determined by paragraph (9) (a), paragraph (9) (b), or  
457 paragraph (9) (c), the address that is known to be the current  
458 address.

459 (10) "Obligor" means the mortgagor, the person subject to  
460 an assessment lien, or the record owner of the timeshare  
461 interest, or the personal representative, court appointed  
462 counsel, or guardian ad litem on behalf of such mortgagor,  
463 person subject to an assessment lien, or record owner of the  
464 timeshare interest.



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465 (11) "Permitted delivery service" means any nationally  
466 recognized common carrier delivery service or international  
467 airmail service that allows for return receipt service or a  
468 service that is recognized by an international jurisdiction to  
469 be the equivalent of certified, registered mail for the  
470 jurisdiction.

471 Section 4. Subsection (6) of section 721.84, Florida  
472 Statutes, is amended to read:

473 721.84 Appointment of a registered agent; duties.—

474 (6) Unless otherwise provided in this section, a registered  
475 agent in receipt of any notice or other document addressed from  
476 the lienholder to the obligor in care of the registered agent at  
477 the registered office must mail, by first-class ~~first-class~~ mail  
478 if the obligor's address is within the United States, and by  
479 international air mail if the obligor's address is outside the  
480 United States, with postage fees prepaid, such notice or  
481 documents to the obligor at the obligor's last designated  
482 address within 5 days after receipt.

483 Section 5. Paragraph (c) of subsection (2), subsections (4)  
484 and (5), paragraph (c) of subsection (6), paragraph (b) of  
485 subsection (7), and paragraph (b) of subsection (14) of section  
486 721.855, Florida Statutes, are amended to read:

487 721.855 Procedure for the trustee foreclosure of assessment  
488 liens.—The provisions of this section establish a trustee  
489 foreclosure procedure for assessment liens.

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

491 (c)1. In order to initiate a trustee foreclosure procedure  
492 against a timeshare interest, the lienholder shall deliver an  
493 affidavit to the trustee that identifies the obligor; the notice

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494 address of the obligor; the timeshare interest; the date that  
495 the notice of the intent to file a lien was given, if  
496 applicable; the official records book and page number where the  
497 claim of lien is recorded; and the name and notice address of  
498 any junior interestholder. ~~The affidavit shall be accompanied by~~  
499 ~~a title search of the timeshare interest identifying any junior~~  
500 ~~interestholders of record, and the effective date of the title~~  
501 ~~search must be a date that is within 60 calendar days before the~~  
502 ~~date of the affidavit.~~

503 2. The affidavit must ~~shall~~ also state the facts that  
504 establish that the obligor has defaulted in the obligation to  
505 make a payment under a specified provision of the timeshare  
506 instrument or applicable law.

507 3. The affidavit must ~~shall~~ also specify the amounts  
508 secured by the lien as of the date of the affidavit and a per  
509 diem amount to account for further accrual of the amounts  
510 secured by the lien.

511 4. The affidavit must ~~shall~~ also state that the assessment  
512 lien was properly created and authorized pursuant to the  
513 timeshare instrument and applicable law.

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

517 (a) The trustee has received the affidavit from the  
518 lienholder under paragraph (2) (c);

519 (b) The trustee has not received a written objection to the  
520 use of the trustee foreclosure procedure under paragraph (3) (a)  
521 and the timeshare interest was not redeemed under paragraph  
522 (3) (b);

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523 (c) There is no lis pendens recorded and pending against  
524 the same timeshare interest before the recording of the notice  
525 of lis pendens pursuant to paragraph (5) (h) and the trustee has  
526 not been served notice of the filing of any action to enjoin the  
527 trustee foreclosure sale;

528 (d) The trustee has provided written notice of default and  
529 intent to foreclose as required under subsection (5) and a  
530 period of at least 30 calendar days has elapsed after such  
531 notice is deemed perfected under subsection (5); ~~and~~

532 (e) The notice of sale required under subsection (6) has  
533 been recorded in the official records of the county or counties  
534 in which the timeshare interest is located; ~~and-~~

535 (f) The lienholder has delivered to the trustee a title  
536 search of the timeshare interest which identifies any junior  
537 interestholders of record, and the effective date of the title  
538 search must be a date that is within 60 calendar days before the  
539 date that it is delivered to the trustee. If it is determined  
540 from the title search that incorrect obligors or junior  
541 interestholders have been served or additional obligors or  
542 junior interestholders have not been served, the foreclosure  
543 action may not proceed until the notices required pursuant to  
544 this section have been served on the correct or additional  
545 obligors or junior interestholders and all applicable time  
546 periods have expired.

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

548 (a) In any foreclosure proceeding under this section, the  
549 trustee is required to notify the obligor of the proceeding by  
550 sending the obligor a written notice of default and intent to  
551 foreclose to the notice address of the obligor by certified

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552 mail, registered mail, or permitted delivery service, return  
553 receipt requested, and by first-class mail ~~or permitted delivery~~  
554 ~~service~~, postage prepaid, as follows:

555 1. The notice of default and intent to foreclose must ~~shall~~  
556 identify the obligor, the notice address of the obligor, the  
557 legal description of the timeshare interest, the nature of the  
558 default, the amounts secured by the lien, and a per diem amount  
559 to account for further accrual of the amounts secured by the  
560 lien and must ~~shall~~ state the method by which the obligor may  
561 cure the default, including the period of time after the date of  
562 the notice of default and intent to foreclose within which the  
563 obligor may cure the default.

564 2. The notice of default and intent to foreclose must ~~shall~~  
565 include an objection form with which the obligor can object to  
566 the use of the trustee foreclosure procedure by signing and  
567 returning the objection form to the trustee. The objection form  
568 must ~~shall~~ identify the obligor, the notice address of the  
569 obligor, the timeshare interest, and the return address of the  
570 trustee and must ~~shall~~ state: "*The undersigned obligor exercises*  
571 *the obligor's right to object to the use of the trustee*  
572 *foreclosure procedure contained in section 721.855, Florida*  
573 *Statutes.*"

574 3. The notice of default and intent to foreclose must ~~shall~~  
575 also contain a statement in substantially the following form:

576

577 *If you fail to cure the default as set forth in this*  
578 *notice or take other appropriate action with regard to*  
579 *this foreclosure matter, you risk losing ownership of*  
580 *your timeshare interest through the trustee*

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581       foreclosure procedure established in section 721.855,  
582       Florida Statutes. You may choose to sign and send to  
583       the trustee the enclosed objection form, exercising  
584       your right to object to the use of the trustee  
585       foreclosure procedure. Upon the trustee's receipt of  
586       your signed objection form, the foreclosure of the  
587       lien with respect to the default specified in this  
588       notice shall be subject to the judicial foreclosure  
589       procedure only. You have the right to cure your  
590       default in the manner set forth in this notice at any  
591       time before the trustee's sale of your timeshare  
592       interest. If you do not object to the use of the  
593       trustee foreclosure procedure, you will not be subject  
594       to a deficiency judgment even if the proceeds from the  
595       sale of your timeshare interest are insufficient to  
596       offset the amounts secured by the lien.

597  
598       4. The trustee shall also mail a copy of the notice of  
599       default and intent to foreclose, without the objection form, to  
600       the notice address of any junior interestholder by certified  
601       mail, registered mail, or permitted delivery service, return  
602       receipt requested, and by first-class mail ~~or permitted delivery~~  
603       ~~service~~, postage prepaid.

604       5. Notice under this paragraph is considered perfected upon  
605       the trustee receiving the return receipt bearing the signature  
606       of the obligor or junior interestholder, as applicable, within  
607       30 calendar days after the trustee sent the notice under this  
608       paragraph. Notice under this paragraph is not perfected if:

609       (I) The notice is returned as undeliverable within 30

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610 calendar days after the trustee sent the notice; ~~if~~

611 (II) The trustee cannot, in good faith, ascertain ~~from the~~  
612 ~~receipt~~ that the obligor or junior interestholder, as  
613 applicable, is the person who signed the receipt because all or  
614 a portion of the obligor's or junior interestholder's name is  
615 not on the signed receipt or the trustee cannot otherwise  
616 determine that the obligor or junior interestholder signed the  
617 receipt; ~~or if~~

618 (III) The receipt from the obligor or junior  
619 interestholder, as applicable, is returned or refused within 30  
620 calendar days after the trustee sent the notice.

621 (b) If the notice required by paragraph (a) is returned as  
622 undeliverable within 30 calendar days after the trustee sent the  
623 notice, the trustee shall perform a diligent search and inquiry  
624 to obtain a different address for the obligor or junior  
625 interestholder. For purposes of this paragraph, any address  
626 known and used by the lienholder for sending regular mailings or  
627 other communications from the lienholder to the obligor or  
628 junior interestholder, as applicable, shall be included with  
629 other addresses produced from the diligent search and inquiry,  
630 if any.

631 1. If the trustee's diligent search and inquiry produces an  
632 address different from the notice address, the trustee shall  
633 mail a copy of the notice by certified mail, registered mail, or  
634 permitted delivery service, return receipt requested, and by  
635 first-class mail or permitted delivery service, postage prepaid,  
636 to the new address. Notice under this subparagraph is considered  
637 perfected upon the trustee receiving the return receipt bearing  
638 the signature of the obligor or junior interestholder, as

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639 applicable, within 30 calendar days after the trustee sent the  
640 notice under this subparagraph. Notice under this subparagraph  
641 is not perfected if the receipt from the obligor or junior  
642 interestholder, as applicable, is returned refused, or the  
643 trustee cannot, in good faith, ascertain from the receipt that  
644 the obligor or junior interestholder, as applicable, is the  
645 person who signed the receipt because all or a portion of the  
646 obligor's or junior interestholder's name is not on the signed  
647 receipt or the trustee cannot otherwise determine that the  
648 obligor or junior interestholder signed the receipt or the  
649 receipt from the obligor or junior interestholder, as  
650 applicable, is returned refused. If the trustee does not perfect  
651 notice under this subparagraph, the trustee shall perfect  
652 service in the manner set forth in paragraph (c).

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

657 (c) If the notice is not perfected under subparagraph  
658 (a)5., and such notice was not returned as undeliverable, or if  
659 the notice was not perfected under subparagraph (b)1., the  
660 trustee may perfect notice by publication in a newspaper of  
661 general circulation in the county or counties in which the  
662 timeshare interest is located. The notice must ~~shall~~ appear at  
663 least once a week for 2 consecutive weeks. The notice of default  
664 and intent to foreclose perfected by publication must identify  
665 the obligor, the notice address of the obligor, the legal  
666 description of the timeshare interest, the nature of the action  
667 in short and simple terms, the name and contact information of

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668 the trustee, and the period of time after the date of the notice  
669 of default and intent to foreclose within which the obligor may  
670 cure the default. The trustee may group an unlimited number of  
671 notices in the same publication, if all of the notices pertain  
672 to the same timeshare plan. Notice under this paragraph is  
673 considered perfected upon publication as required in this  
674 paragraph.

675 (d) If notice is perfected under subparagraph (a)5., the  
676 trustee shall execute an affidavit in recordable form setting  
677 forth the manner in which notice was perfected and attach the  
678 affidavit to the certificate of compliance set forth in  
679 subsection (9). The affidavit must ~~shall~~ state the nature of the  
680 notice, the date on which the notice was mailed, the name and  
681 address on the envelope containing the notice, the manner in  
682 which the notice was mailed, and the basis for that knowledge.

683 (e) If notice is perfected under subparagraph (b)1., the  
684 trustee shall execute an affidavit in recordable form setting  
685 forth the manner in which notice was perfected and attach the  
686 affidavit to the certificate of compliance set forth in  
687 subsection (9). The affidavit must ~~shall~~ state the nature of the  
688 notice, the dates on which the notice was mailed, the name and  
689 addresses on the envelopes containing the notice, and the manner  
690 in which the notices were mailed, and the fact that a signed  
691 receipt from the certified mail, registered mail, or permitted  
692 delivery service was timely received, ~~and the name and address~~  
693 ~~on the envelopes containing the notice.~~

694 (f) If notice is perfected by publication under paragraph  
695 (c), the trustee shall execute an affidavit in recordable form  
696 setting forth the manner in which notice was perfected and



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697 attach the affidavit to the certificate of compliance set forth  
698 in subsection (9). The affidavit must ~~shall~~ include all the  
699 information contained in ~~either~~ paragraph (d) or paragraph (e),  
700 as applicable, must ~~shall~~ state that the notice was perfected by  
701 publication and must state that ~~after~~ diligent search and  
702 inquiry was made for the current address for the person, unless  
703 such diligent search was not required because service was  
704 refused, returned as undeliverable, or the trustee has  
705 ascertained that that the obligor or junior interestholder, as  
706 applicable, is the person who signed the receipt. The affidavit  
707 must also ~~and shall~~ include ~~a statement that notice was~~  
708 ~~perfected by publication, and shall set forth~~ the information  
709 required by s. 49.041 in the case of a natural person or s.  
710 49.051 in the case of a corporation, whichever is applicable. No  
711 other action of the trustee is necessary to perfect notice.

712 (g) Notice under subparagraph (a) or subparagraph (b) of  
713 this subsection is deemed perfected as to all obligors who have  
714 the same address if notice is perfected as to at least one  
715 obligor at that address pursuant to the provisions of this  
716 subsection.

717 (h) The initiation of a trustee foreclosure action operates  
718 as a lis pendens on the timeshare interest pursuant to s. 48.23  
719 only if a notice of lis pendens is recorded in the official  
720 records of the county in which the deed conveying the timeshare  
721 interest to the obligor was recorded and such notice has not  
722 expired pursuant to s. 48.23 or been withdrawn or discharged.  
723 The notice of lis pendens must contain the following:

- 724 1. The name of the obligor.  
725 2. The date of the initiation of the trustee foreclosure

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726 action, which date must be the date of the sending of the notice  
727 of default and intent to foreclose to the obligor.

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

729 4. The legal description of the timeshare interest.

730 5. A statement that a trustee foreclosure action has been  
731 initiated against the timeshare interest pursuant to this  
732 section.

733 (6) NOTICE OF SALE.—

734 (c) After the date of recording of the notice of sale,  
735 notice is not required to be given to any person claiming an  
736 interest in the timeshare interest except as provided in this  
737 section. If a notice of lis pendens has not previously been  
738 recorded pursuant to paragraph (5)(h), the recording of the  
739 notice of sale has the same force and effect as the filing of a  
740 lis pendens in a judicial proceeding under s. 48.23.

741 (7) MANNER OF SALE.—

742 (b) The trustee shall conduct the sale and act as the  
743 auctioneer. The trustee may use a third party to conduct the  
744 sale on behalf of the trustee; provided, however, that the  
745 trustee remains liable for the conduct of the sale and the  
746 actions of the third party with respect to the conduct of the  
747 sale.

748 (14) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE  
749 PROCEDURE.—

750 (b) Any trustee who intentionally violates the provisions  
751 of this section concerning the trustee foreclosure procedure  
752 commits a felony of the third degree, punishable as provided in  
753 s. 775.082, s. 775.083, or s. 775.084. A trustee does not commit  
754 a violation of this section if he or she incorrectly ascertains

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755 that it is the obligor who signed the return receipt as required  
756 in s. 721.855(5); provided, however, that the trustee makes a  
757 good faith effort to properly ascertain if the obligor signed  
758 the return receipt in accordance with s. 721.855(5).

759 Section 6. Paragraph (b) of subsection (2), subsections (4)  
760 and (5), paragraph (c) of subsection (6), paragraph (b) of  
761 subsection (7), and paragraph (b) of subsection (13) of section  
762 721.856, Florida Statutes, are amended to read:

763 721.856 Procedure for the trustee foreclosure of mortgage  
764 liens.—The provisions of this section establish a trustee  
765 foreclosure procedure for mortgage liens.

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

767 (b)1. In order to initiate a trustee foreclosure procedure  
768 against a timeshare interest, the lienholder shall deliver an  
769 affidavit to the trustee that identifies the obligor, the notice  
770 address of the obligor, the timeshare interest, the official  
771 records book and page number where the mortgage is recorded, and  
772 the name and notice address of any junior interestholder. ~~The~~  
773 ~~affidavit shall be accompanied by a title search of the~~  
774 ~~timeshare interest identifying any junior interestholders of~~  
775 ~~record, and the effective date of the title search must be a~~  
776 ~~date that is within 60 calendar days before the date of the~~  
777 ~~affidavit.~~

778 2. The affidavit shall also state the facts that establish  
779 that the obligor has defaulted in the obligation to make a  
780 payment under a specified provision of the mortgage or is  
781 otherwise deemed in uncured default under a specified provision  
782 of the mortgage.

783 3. The affidavit shall also specify the amounts secured by

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784 the lien as of the date of the affidavit and a per diem amount  
785 to account for further accrual of the amounts secured by the  
786 lien.

787 4. The affidavit shall also state that the appropriate  
788 amount of documentary stamp tax and intangible taxes has been  
789 paid upon recording of the mortgage, or otherwise paid to the  
790 state.

791 5. The affidavit shall also state that the lienholder is  
792 the holder of the note and has complied with all preconditions  
793 in the note and mortgage to determine the amounts secured by the  
794 lien and to initiate the use of the trustee foreclosure  
795 procedure.

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

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

801 (b) The trustee has not received a written objection to the  
802 use of the trustee foreclosure procedure under paragraph (3) (a)  
803 and the timeshare interest was not redeemed under paragraph  
804 (3) (b);

805 (c) There is no lis pendens recorded and pending against  
806 the same timeshare interest before the initiation of the trustee  
807 foreclosure action and provided a notice of lis pendens has been  
808 recorded pursuant to paragraph (5) (h), and the trustee has not  
809 been served notice of the filing of any action to enjoin the  
810 trustee foreclosure sale;

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

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813 (e) The trustee has provided written notice of default and  
814 intent to foreclose as required under subsection (5) and a  
815 period of at least 30 calendar days has elapsed after such  
816 notice is deemed perfected under subsection (5); and

817 (f) The notice of sale required under subsection (6) has  
818 been recorded in the official records of the county in which the  
819 mortgage was recorded.

820 (g) The lienholder has delivered to the trustee a title  
821 search of the timeshare interest identifying any junior  
822 interestholders of record, and the effective date of the title  
823 search must be a date that is within 60 calendar days before the  
824 date that it is delivered to the trustee. If it is determined  
825 from the title search that incorrect obligors or junior  
826 interestholders have been served or additional obligors or  
827 junior interestholders have not been served, the foreclosure  
828 action may not proceed until the notices required pursuant to  
829 this section have been served on the correct or additional  
830 obligors or junior interestholders and all applicable time  
831 periods have expired.

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

833 (a) In any foreclosure proceeding under this section, the  
834 trustee is required to notify the obligor of the proceeding by  
835 sending the obligor a written notice of default and intent to  
836 foreclose to the notice address of the obligor by certified  
837 mail, registered mail, or permitted delivery service, return  
838 receipt requested, and by first-class mail ~~or permitted delivery~~  
839 ~~service~~, postage prepaid, as follows:

840 1. The notice of default and intent to foreclose must ~~shall~~  
841 identify the obligor, the notice address of the obligor, the

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842 legal description of the timeshare interest, the nature of the  
843 default, the amounts secured by the lien, and a per diem amount  
844 to account for further accrual of the amounts secured by the  
845 lien and must ~~shall~~ state the method by which the obligor may  
846 cure the default, including the period of time after the date of  
847 the notice of default and intent to foreclose within which the  
848 obligor may cure the default.

849 2. The notice of default and intent to foreclose must ~~shall~~  
850 include an objection form with which the obligor can object to  
851 the use of the trustee foreclosure procedure by signing and  
852 returning the objection form to the trustee. The objection form  
853 must ~~shall~~ identify the obligor, the notice address of the  
854 obligor, the timeshare interest, and the return address of the  
855 trustee and shall state: "*The undersigned obligor exercises the*  
856 *obligor's right to object to the use of the trustee foreclosure*  
857 *procedure contained in section 721.856, Florida Statutes.*"

858 3. The notice of default and intent to foreclose must ~~shall~~  
859 also contain a statement in substantially the following form:

860  
861 *If you fail to cure the default as set forth in this*  
862 *notice or take other appropriate action with regard to*  
863 *this foreclosure matter, you risk losing ownership of*  
864 *your timeshare interest through the trustee*  
865 *foreclosure procedure established in section 721.856,*  
866 *Florida Statutes. You may choose to sign and send to*  
867 *the trustee the enclosed objection form, exercising*  
868 *your right to object to the use of the trustee*  
869 *foreclosure procedure. Upon the trustee's receipt of*  
870 *your signed objection form, the foreclosure of the*

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871        *lien with respect to the default specified in this*  
872        *notice shall be subject to the judicial foreclosure*  
873        *procedure only. You have the right to cure your*  
874        *default in the manner set forth in this notice at any*  
875        *time before the trustee's sale of your timeshare*  
876        *interest. If you do not object to the use of the*  
877        *trustee foreclosure procedure, you will not be subject*  
878        *to a deficiency judgment even if the proceeds from the*  
879        *sale of your timeshare interest are insufficient to*  
880        *offset the amounts secured by the lien.*

881  
882        4. The trustee shall also mail a copy of the notice of  
883        default and intent to foreclose, without the objection form, to  
884        the notice address of any junior interestholder by certified  
885        mail, registered mail, or permitted delivery service, return  
886        receipt requested, and by first-class mail ~~or permitted delivery~~  
887        ~~service~~, postage prepaid.

888        5. Notice under this paragraph is considered perfected upon  
889        the trustee receiving the return receipt bearing the signature  
890        of the obligor or junior interestholder, as applicable, within  
891        30 calendar days after the trustee sent the notice under this  
892        paragraph. Notice under this paragraph is not perfected if:

893        (I) The notice is returned as undeliverable within 30  
894        calendar days after the trustee sent the notice; ~~if~~

895        (II) The trustee cannot, in good faith, ascertain ~~from the~~  
896        ~~receipt~~ that the obligor or junior interestholder, as  
897        applicable, is the person who signed the receipt because all or  
898        a portion of the obligor's or junior interestholder's name is  
899        not on the signed receipt or the trustee cannot otherwise

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900 determine that the obligor or junior interestholder signed the  
901 receipt;~~7~~ or ~~if~~

902 (III) The receipt from the obligor or junior  
903 interestholder, as applicable, is returned or refused within 30  
904 calendar days after the trustee sent the notice.

905 (b) If the notice required by paragraph (a) is returned as  
906 undeliverable within 30 calendar days after the trustee sent the  
907 notice, the trustee shall perform a diligent search and inquiry  
908 to obtain a different address for the obligor or junior  
909 interestholder. For purposes of this paragraph, any address  
910 known and used by the lienholder for sending regular mailings or  
911 other communications from the lienholder to the obligor or  
912 junior interestholder, as applicable, must ~~shall~~ be included  
913 with other addresses produced from the diligent search and  
914 inquiry, if any.

915 1. If the trustee's diligent search and inquiry produces an  
916 address different from the notice address, the trustee shall  
917 mail a copy of the notice by certified mail, registered mail, or  
918 permitted delivery service, return receipt requested, and by  
919 first-class mail ~~or permitted delivery service~~, postage prepaid,  
920 to the new address. Notice under this subparagraph is considered  
921 perfected upon the trustee receiving the return receipt bearing  
922 the signature of the obligor or junior interestholder, as  
923 applicable, within 30 calendar days after the trustee sent the  
924 notice under this subparagraph. Notice under this subparagraph  
925 is not perfected if the receipt from the obligor or junior  
926 interestholder, as applicable, is returned refused, or the  
927 trustee cannot, in good faith, ascertain ~~from the receipt~~ that  
928 the obligor or junior interestholder, as applicable, is the



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929 person who signed the receipt because all or a portion of the  
930 obligor's or junior interestholder's name is not on the signed  
931 receipt or the trustee cannot otherwise determine that the  
932 obligor or junior interestholder signed the receipt ~~or the~~  
933 ~~receipt from the obligor or junior interestholder, as~~  
934 ~~applicable, is returned refused.~~ If the trustee does not perfect  
935 notice under this subparagraph, the trustee shall perfect  
936 service in the manner set forth in paragraph (c).

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

941 (c) If the notice is not perfected under subparagraph  
942 (a)5., and such notice was not returned as undeliverable, or if  
943 the notice was not perfected under subparagraph (b)1., the  
944 trustee may perfect notice by publication in a newspaper of  
945 general circulation in the county or counties in which the  
946 timeshare interest is located. The notice must ~~shall~~ appear at  
947 least once a week for 2 consecutive weeks. The notice of default  
948 and intent to foreclose perfected by publication must identify  
949 the obligor, the notice address of the obligor, the legal  
950 description of the timeshare interest, the nature of the action  
951 in short and simple terms, the name and contact information of  
952 the trustee, and the period of time after the date of the notice  
953 of default and intent to foreclose within which the obligor may  
954 cure the default. The trustee may group an unlimited number of  
955 notices in the same publication, if all of the notices pertain  
956 to the same timeshare plan. Notice under this paragraph is  
957 considered perfected upon publication as required in this

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958 paragraph.

959 (d) If notice is perfected under subparagraph (a)5., the  
960 trustee shall execute an affidavit in recordable form setting  
961 forth the manner in which notice was perfected and attach the  
962 affidavit to the certificate of compliance set forth in  
963 subsection (9). The affidavit must ~~shall~~ state the nature of the  
964 notice, the date on which the notice was mailed, the name and  
965 address on the envelope containing the notice, the manner in  
966 which the notice was mailed, and the basis for that knowledge.

967 (e) If notice is perfected under subparagraph (b)1., the  
968 trustee shall execute an affidavit in recordable form setting  
969 forth the manner in which notice was perfected and attach the  
970 affidavit to the certificate of compliance set forth in  
971 subsection (9). The affidavit must ~~shall~~ state the nature of the  
972 notice, the dates on which the notice was mailed, the name and  
973 addresses on the envelopes containing the notice, the manner in  
974 which the notice was mailed, and the fact that a signed receipt  
975 from the certified mail, registered mail, or permitted delivery  
976 service was timely received, ~~and the name and address on the~~  
977 ~~envelopes containing the notice.~~

978 (f) If notice is perfected under paragraph (c), the trustee  
979 shall execute an affidavit in recordable form setting forth the  
980 manner in which notice was perfected and attach the affidavit to  
981 the certificate of compliance set forth in subsection (9). The  
982 affidavit must ~~shall~~ include all the information contained in  
983 either paragraph (d) or paragraph (e), as applicable, must ~~shall~~  
984 state that the notice was perfected by publication and must  
985 state that ~~after~~ diligent search and inquiry was made for the  
986 current address for the person, unless such diligent search was

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987 not required because service was refused, returned as  
988 undeliverable, or the trustee has ascertained that the obligor  
989 or junior interestholder, as applicable, is the person who  
990 signed the receipt. The affidavit must also ~~shall~~ include a  
991 statement that notice was perfected by publication, and shall  
992 set forth the information required by s. 49.041 in the case of a  
993 natural person or s. 49.051 in the case of a corporation,  
994 whichever is applicable. No other action of the trustee is  
995 necessary to perfect notice.

996 (g) Notice under subparagraph (a) or subparagraph (b) of  
997 this subsection shall be deemed perfected as to all obligors who  
998 have the same address if notice is perfected as to at least one  
999 obligor at that address pursuant to the provisions of this  
1000 subsection.

1001 (h) The initiation of a trustee foreclosure action operates  
1002 as a lis pendens on the timeshare interest pursuant to s. 48.23  
1003 only if a notice of lis pendens is recorded in the official  
1004 records of the county or counties in which the mortgage is  
1005 recorded and such notice has not expired pursuant to subsection  
1006 (2) of s. 48.23 or been withdrawn or discharged. The notice of  
1007 lis pendens must contain the following:

1008 1. The name of the obligor.

1009 2. The date of the initiation of the trustee foreclosure  
1010 action, which date must be the date of the sending of the notice  
1011 of default and intent to foreclose to the obligor.

1012 3. The name and contact information of the trustee.

1013 4. The legal description of the timeshare interest.

1014 5. A statement that a trustee foreclosure action has been  
1015 initiated against the timeshare interest pursuant to this

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1016 section.

1017 (6) NOTICE OF SALE.—

1018 (c) After the date of recording of the notice of sale,  
1019 notice is not required to be given to any person claiming an  
1020 interest in the timeshare interest except as provided in this  
1021 section. If a notice of lis pendens has not previously been  
1022 recorded pursuant to paragraph (5)(h), the recording of the  
1023 notice of sale has the same force and effect as the filing of a  
1024 lis pendens in a judicial proceeding under s. 48.23.

1025 (7) MANNER OF SALE.—

1026 (b) The trustee shall conduct the sale and act as the  
1027 auctioneer. The trustee may use a third party to conduct the  
1028 sale on behalf of the trustee; provided, however, that the  
1029 trustee remains liable for the conduct of the sale and the  
1030 actions of such third party with respect to the conduct of the  
1031 sale.

1032 (13) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE  
1033 PROCEDURE.—

1034 (b) Any trustee who intentionally violates the provisions  
1035 of this section concerning the trustee foreclosure procedure  
1036 commits a felony of the third degree, punishable as provided in  
1037 s. 775.082, s. 775.083, or s. 775.084. A trustee does not commit  
1038 a violation of this section if he or she incorrectly ascertains  
1039 that it is the obligor who signed the return receipt as required  
1040 in s. 721.855(6); provided, however, that the trustee makes a  
1041 good faith effort to properly ascertain if the obligor signed  
1042 the return receipt in accordance with s. 721.855(6).

1043 Section 7. This act shall take effect July 1, 2013.