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CS/HB 429

2024 Legislature

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 2 An act relating to real property; amending s. 695.03,
 3 F.S.; providing that the Secretary of State, rather
 4 than the Governor, appoints commissioners of deeds;
 5 amending s. 721.13, F.S.; broadening the powers of
 6 certain boards of administration with respect to
 7 timeshare plans; providing that managers and managing
 8 entities of certain timeshare projects have the same
 9 rights and remedies as operators of certain
 10 establishments and may have law enforcement take
 11 certain actions against individuals who engage in
 12 certain conduct; amending s. 721.15, F.S.; requiring a
 13 managing entity of a timeshare condominium or
 14 timeshare cooperative to provide a specified
 15 certificate to certain interested parties in lieu of
 16 an estoppel certificate; amending s. 721.97, F.S.;
 17 providing that the Secretary of State, rather than the
 18 Governor, appoints commissioners of deeds; providing
 19 an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Subsections (2) and (3) of section 695.03,
 24 Florida Statutes, are amended to read:
 25 695.03 Acknowledgment and proof; validation of certain

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26 | acknowledgments; legalization or authentication before foreign
 27 | officials.—To entitle any instrument concerning real property to
 28 | be recorded, the execution must be acknowledged by the party
 29 | executing it, proved by a subscribing witness to it, or
 30 | legalized or authenticated in one of the following forms:

31 | (2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.—An
 32 | acknowledgment or a proof taken, administered, or made outside
 33 | of this state but within the United States may be taken,
 34 | administered, or made by or before a civil-law notary of this
 35 | state or a commissioner of deeds appointed by the Secretary of
 36 | State Governor of this state; by or before a judge or clerk of
 37 | any court of the United States or of any state, territory, or
 38 | district; by or before a United States commissioner or
 39 | magistrate; or by or before any notary public, justice of the
 40 | peace, master in chancery, or registrar or recorder of deeds of
 41 | any state, territory, or district having a seal, and the
 42 | certificate of acknowledgment or proof must be under the seal of
 43 | the court or officer, as the case may be. If the acknowledgment
 44 | or proof is taken, administered, or made by or before a notary
 45 | public who does not affix a seal, it is sufficient for the
 46 | notary public to type, print, or write by hand on the
 47 | instrument, "I am a Notary Public of the State of ... (state) ...,
 48 | and my commission expires on ... (date)"

49 | (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
 50 | COUNTRIES.—An acknowledgment, an affidavit, an oath, a

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51 legalization, an authentication, or a proof taken, administered,
 52 or made outside the United States or in a foreign country may be
 53 taken, administered, or made by or before a commissioner of
 54 deeds appointed by the Secretary of State ~~Governor of this state~~
 55 to act in such country; by or before a notary public of such
 56 foreign country or a civil-law notary of this state or of such
 57 foreign country who has an official seal; by or before an
 58 ambassador, envoy extraordinary, minister plenipotentiary,
 59 minister, commissioner, charge d'affaires, consul general,
 60 consul, vice consul, consular agent, or other diplomatic or
 61 consular officer of the United States appointed to reside in
 62 such country; or by or before a military or naval officer
 63 authorized by 10 U.S.C. s. 1044a to perform the duties of notary
 64 public, and the certificate of acknowledgment, legalization,
 65 authentication, or proof must be under the seal of the officer.
 66 A certificate legalizing or authenticating the signature of a
 67 person executing an instrument concerning real property and to
 68 which a civil-law notary or notary public of that country has
 69 affixed her or his official seal is sufficient as an
 70 acknowledgment. For the purposes of this section, the term
 71 "civil-law notary" means a civil-law notary as defined in
 72 chapter 118 or an official of a foreign country who has an
 73 official seal and who is authorized to make legal or lawful the
 74 execution of any document in that jurisdiction, in which
 75 jurisdiction the affixing of her or his official seal is deemed

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76 | proof of the execution of the document or deed in full
 77 | compliance with the laws of that jurisdiction.

78 | Section 2. Subsection (8) of section 721.13, Florida
 79 | Statutes, is amended, and subsection (14) is added to that
 80 | section, to read:

81 | 721.13 Management.—

82 | (8) Notwithstanding anything to the contrary in s.
 83 | 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of
 84 | administration of any owners' association that operates a
 85 | timeshare plan including a timeshare condominium pursuant to s.
 86 | 718.111, or a timeshare cooperative pursuant to s. 719.104,
 87 | shall have the power to make material alterations or substantial
 88 | additions to the accommodations or facilities of such timeshare
 89 | plan and deletions to the facilities of such timeshare plan
 90 | ~~condominium or timeshare cooperative~~ without the approval of the
 91 | members of the owners' association, provided that the deletion
 92 | of any facilities is approved by a two-thirds vote of the board
 93 | of administration and is consistent with the fiduciary duties
 94 | set forth in subsection (2). However, if the timeshare
 95 | condominium or timeshare cooperative contains any residential
 96 | units that are not subject to the timeshare plan, such action by
 97 | the board of administration must be approved by a majority of
 98 | the owners of such residential units. Unless otherwise provided
 99 | in the timeshare instrument as originally recorded, no such
 100 | amendment may change the configuration or size of any

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101 accommodation in any material fashion, or change the proportion
 102 or percentage by which a member of the owners' association
 103 shares the common expenses, unless the record owners of the
 104 affected units or timeshare interests and all record owners of
 105 liens on the affected units or timeshare interests join in the
 106 execution of the amendment.

107 (14) With regard to any timeshare project as defined in s.
 108 509.242(1)(g), the managing entity or manager has all of the
 109 rights and remedies of an operator of any public lodging
 110 establishment or public food service establishment as set forth
 111 in ss. 509.141, 509.142, 509.143, and 509.162 and is entitled to
 112 have a law enforcement officer take any action, including arrest
 113 or removal from the timeshare property, against any purchaser,
 114 including a deeded owner, or guest or invitee of such purchaser
 115 or owner who engages in conduct described in s. 509.141, s.
 116 509.142, s. 509.143, or s. 509.162 or conduct in violation of
 117 the timeshare instrument.

118 Section 3. Paragraph (b) of subsection (7) of section
 119 721.15, Florida Statutes, is amended to read:

120 721.15 Assessments for common expenses.—

121 (7)

122 (b) Within 30 days after receiving a written request from
 123 a timeshare interest owner, an agent designated in writing by
 124 the timeshare interest owner, or a person providing resale
 125 transfer services for a consumer timeshare reseller pursuant to

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126 s. 721.17(3), a managing entity must provide a certificate,
 127 signed by an officer or agent of the managing entity, to the
 128 person requesting the certificate, that states the amount of any
 129 assessment, transfer fee, or other moneys currently owed to the
 130 managing entity, and of any assessment, transfer fee, or other
 131 moneys approved by the managing entity that will be due within
 132 the next 90 days, with respect to the designated consumer resale
 133 timeshare interest, as well as any information contained in the
 134 books and records of the timeshare plan regarding the legal
 135 description and use plan related to the designated consumer
 136 resale timeshare interest. The managing entity of a timeshare
 137 condominium or timeshare cooperative must provide this
 138 certificate in lieu of the estoppel certificate required by s.
 139 718.116(8) or s. 719.108(6).

140 1. A person who relies upon such certificate shall be
 141 protected thereby.

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

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

149 Section 4. Subsection (1) of section 721.97, Florida
 150 Statutes, is amended to read:

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151 721.97 Timeshare commissioner of deeds.—
 152 (1) The Secretary of State ~~Governor~~ may appoint
 153 commissioners of deeds to take acknowledgments, proofs of
 154 execution, or oaths in any foreign country, in international
 155 waters, or in any possession, territory, or commonwealth of the
 156 United States outside the 50 states. The term of office is 4
 157 years. Commissioners of deeds shall have authority to take
 158 acknowledgments, proofs of execution, and oaths in connection
 159 with the execution of any deed, mortgage, deed of trust,
 160 contract, power of attorney, or any other writing to be used or
 161 recorded in connection with a timeshare estate, personal
 162 property timeshare interest, timeshare license, any property
 163 subject to a timeshare plan, or the operation of a timeshare
 164 plan located within this state; provided such instrument or
 165 writing is executed outside the United States. Such
 166 acknowledgments, proofs of execution, and oaths must be taken or
 167 made in the manner directed by the laws of this state, including
 168 but not limited to s. 117.05(4), (5)(a), and (6), Florida
 169 Statutes 1997, and certified by a commissioner of deeds. The
 170 certification must be endorsed on or annexed to the instrument
 171 or writing aforesaid and has the same effect as if made or taken
 172 by a notary public licensed in this state.
 173 Section 5. This act shall take effect July 1, 2024.