

Committee Substitute for Senate Bill No. 2252

An act relating to timeshares; amending s. 721.111, F.S.; increasing the number of allowable promotional prizes which may be made available annually; amending s. 721.13, F.S.; authorizing the managing entity of a timeshare to allocate net rental proceeds in any reasonable manner with respect to a specific timeshare under certain circumstances; authorizing the managing entity to rent certain units to a developer at a bulk rate; amending s. 721.15, F.S.; revising a provision with respect to assessments for common expenses; providing an effective date.

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

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

721.111 Prize and gift promotional offers.—

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

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

721.13 Management.—

(6)

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

timeshare plan, may allocate such net rental proceeds by the managing entity in any reasonable manner.

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

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

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

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

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

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

721.15 Assessments for common expenses.—

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

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

Approved by the Governor April 23, 2002.

Filed in Office Secretary of State April 23, 2002.