

Title 33: PROPERTY
Chapter 10-A: TIME SHARES

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Maine Revised Statutes
Title 33: PROPERTY
Chapter 10-A: TIME SHARES

§591. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 248, §3 (NEW).]

1. Manager. "Manager" means any person, other than all time-share owners or the association, designated in or employed pursuant to the time-share instrument or project instrument to manage the time-share units.

[1983, c. 248, §3 (NEW) .]

2. Managing entity. "Managing entity" means the manager or, if there is no manager, the association of unit owners.

[1983, c. 248, §3 (NEW) .]

3. Project. "Project" means real property subject to a project instrument containing more than one unit. A project may include units that are not time-share units.

[1983, c. 248, §3 (NEW) .]

4. Project instrument. "Project instrument" means one or more recordable documents by whatever name denominated, applying to the whole of a project and containing restrictions or covenants regulating the use, occupancy or disposition of units in a project, including any amendments to the document, but excluding any law, ordinance or governmental regulation.

[1983, c. 248, §3 (NEW) .]

5. Purchaser. "Purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a time share other than as security for an obligation.

[1983, c. 248, §3 (NEW) .]

6. Time share. "Time share" means a time-share estate or a time-share license.

[1983, c. 248, §3 (NEW) .]

7. Time-share estate. "Time-share estate" means any interest in a unit or any of several units under which the exclusive right of use, possession or occupancy of the unit circulates among the various time-share owners in the unit in accordance with a fixed time schedule on a periodically recurring basis for periods of time established by the schedule coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.

[1983, c. 248, §3 (NEW) .]

8. Time-share instrument. "Time-share instrument" means one or more documents, by whatever name denominated, creating or regulating time shares.

[1983, c. 248, §3 (NEW) .]

9. Time-share license. "Time-share license" means a right to occupy a unit or any of several units during 3 or more separated time periods over a period of at least 3 years, including renewal options, not coupled with a freehold estate or an estate for years.

[1983, c. 248, §3 (NEW) .]

10. Time-share owner. "Time-share owner" means a person who is an owner or co-owner of a time share other than as security for an obligation.

[1983, c. 248, §3 (NEW) .]

11. Time-share property. "Time-share property" means one or more time-share units subject to the same time-share instrument, together with any other real estate or rights appurtenant to those units.

[1983, c. 248, §3 (NEW) .]

12. Time-share unit. "Time-share unit" means a unit in which time shares exist.

[1983, c. 248, §3 (NEW) .]

13. Unit. "Unit" means real property or a portion thereof designated for separate use.

[1983, c. 248, §3 (NEW) .]

SECTION HISTORY

1983, c. 248, §3 (NEW) .

§592. REQUIREMENTS OF TIME SHARES

1. Specific disclosures. No time share may be conveyed by a developer or conveyed for the first time unless, prior to that conveyance or the execution of an agreement for the purchase, whichever is earlier, the purchaser is provided, at no cost to the purchaser, with a written statement containing the following information, all of which shall be current to a point not more than 60 days prior to the date of delivery to the purchaser.

A. The front cover or first page must contain only:

- (1) The name and principal address of the developer and of the project and the location of the time-share property; and
- (2) The following statements in conspicuous type.
 - (a) THIS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A TIME SHARE. STATE OF MAINE LAW REQUIRES THAT THESE DISCLOSURES BE MADE BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET.
 - (b) YOU MAY CANCEL THE PURCHASE TRANSACTION WITHIN TEN CALENDAR DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF A CURRENT WRITTEN STATEMENT, WHICHEVER IS LATER.
 - (c) THE STATEMENTS CONTAINED INSIDE ARE ONLY SUMMARY IN NATURE. IF YOU ARE THINKING OF BUYING A UNIT, YOU SHOULD TALK TO YOUR ATTORNEY AND LOOK AT ALL EXHIBITS, INCLUDING THE DECLARATION, PROJECT INSTRUMENT FLOOR PLAN, PLOT PLAN, BYLAWS AND CONTRACTS.

(d) YOU SHOULD ASK YOUR ATTORNEY AND THE DEVELOPER TO TELL YOU WHAT WILL HAPPEN TO YOUR DEPOSIT, INTEREST IN THE UNIT, OR COSTS AND EXPENSES IF THE DEVELOPER OR OWNER IS DECLARED BANKRUPT. OBTAIN THE ANSWER FROM THE DEVELOPER IN WRITING. [1997, c. 83, §1 (AMD) .]

B. The following pages shall contain, in the following order:

- (1) A general description of the time-share property and the time-share units, including, without limitation, the number and types of units in the time-share property and in any project of which it is a part and the schedule of commencement and completion of construction of all buildings, units, amenities and improvements;
- (2) The maximum number of units that may become part of the time-share property, a statement of the maximum number of time shares that may be created or that there is no maximum, and the proportion of units the developer intends to rent or market in blocks of units to investors;
- (3) Copies and a brief narrative description of the significant features of the project instrument and time-share instrument and any documents referred to therein, other than the survey and floor plans; the bylaws; rules; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases, the term of which will or may extend beyond the period of developer control of the association;
- (4) Any current balance sheet and a projected budget for the association, if there is an association, for one year after the date of the first transfer to a purchaser, and thereafter the current budget, a statement of who prepared the budget and a statement of the budgetary assumptions concerning occupancy and inflation factors. The budget shall include, without limitation:
 - (a) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;
 - (b) A statement of any other reserves;
 - (c) The projected common expense assessment by category of expenditures for the association; and
 - (d) The projected monthly common expense assessment for each type of unit;
- (5) Any services not reflected in the budget that the developer provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit and each time-share estate;
- (6) Any initial or special fee due from the purchaser at or before closing, together with a description of the purpose of the fee and method of its calculation;
- (7) A description and a statement of the effect on the time-share owners of any liens, defects or encumbrances on or affecting the title to the project and each time-share unit;
- (8) A description of any financing offered by the developer;
- (9) The terms and significant limitations of any warranties provided by the developer, including statutory warranties and limitations on the enforcement thereof or on damages;
- (10) A statement that:
 - (a) Within 10 calendar days after receipt of the current written statement or execution of a contract, whichever is later, a purchaser may cancel any conveyance or contract for purchase of a unit from the developer; and
 - (b) If the purchaser elects to cancel, the purchaser may do so by hand delivering a notice of cancellation or by mailing the notice by prepaid United States mail to the developer. The cancellation must be without penalty and any deposit made by the purchaser must be promptly refunded in its entirety;

(11) A statement of any unsatisfied judgments against the association, developer or managing entity, the status of any pending suits to which the association, developer or managing entity is a party and the status of any pending suits material to the property of which the developer has actual knowledge;

(12) A statement that any deposit made in connection with the purchase of a unit will be returned to the purchaser if the purchaser cancels the contract within 10 calendar days after receipt of the written statement or contract;

(13) Any restraints on transfer of time shares or portions thereof;

(14) A description of the insurance coverage provided for the benefit of the time-share owners;

(15) Any current or expected fees or charges to be paid by time-share owners for the use of the common elements and other facilities related to the project;

(16) All unusual and material circumstances, features and characteristics of the project and the units;

(17) The projected common expense assessment for each time share and whether those assessments may vary seasonally;

(18) The extent to which the time-share owners of a unit are jointly and severally liable for the payment of real estate taxes and all assessments and other charges levied against that unit; and

(19) The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other time-share owners of the same time-share unit. [1997, c. 83, §2 (AMD) .]

[1997, c. 83, §§1, 2 (AMD) .]

2. Restraint upon partition of time-share units. No action for partition of any unit in which time shares are created may lie.

[1983, c. 248, §3 (NEW) .]

3. Cancellation of contract. Any purchaser or prospective purchaser of a time share may cancel a contract or conveyance of a time share by delivering or mailing a postage prepaid written notice of the purchaser's intention to cancel within 10 calendar days after the date of any contract or conveyance or within 10 calendar days after delivery of the current written statement required by subsection 1, whichever is later.

[1997, c. 83, §3 (AMD) .]

4. Time share located outside State. This section shall apply to offers or sales within this State of time shares in property, even if the project is located outside of this State.

[1983, c. 248, §3 (NEW) .]

5. Application with respect to foreclosures of mortgages. This section shall not apply to offers or sales by financial institutions as defined in Title 9-B of time shares in property with respect to foreclosure of any mortgage or the delivery of any deed in lieu of that foreclosure.

[1983, c. 248, §3 (NEW) .]

6. Violation. Any violation of this section shall be a violation of Title 5, chapter 10.

[1983, c. 248, §3 (NEW) .]

7. Completion of construction; escrow requirement. Notwithstanding chapter 31, a developer of a time-share project may convey a time-share to a purchaser prior to the time-share unit containing the time-share being substantially completed, as long as the developer deposits all funds or other consideration received from or on behalf of the purchaser into an escrow account subject to an escrow agreement with an independent escrow agent.

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal building official for the time-share unit containing the time-share. [2009, c. 261, Pt. B, §15 (AMD).]

B. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company authorized and licensed to do business in this State in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account pursuant to this section. [1999, c. 478, §1 (NEW).]

C. As used in this subsection, "independent escrow agent" means a financial institution whose accounts are insured by a governmental agency or instrumentality; an attorney; or a licensed title insurance company, in which:

(1) The escrow agent is not a relative or an employee of the developer or managing entity or of any officer, director, affiliate or subsidiary of the developer or managing entity;

(2) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this section, between the escrow agent and the developer or managing entity or any officer, director, affiliate or subsidiary of the developer or managing entity; and

(3) Compensation paid by the developer to the escrow agent for services rendered is not paid from funds in the escrow account. [1999, c. 478, §1 (NEW).]

D. For purposes of paragraph C, an independent escrow agent may not be disqualified to serve as escrow agent solely because:

(1) The escrow agent provides the developer or managing entity with routine banking services that do not include construction or receivables financing or any other lending activities;

(2) A nonemployee, attorney-client relationship exists between the developer or managing entity and the escrow agent; or

(3) The escrow agent performs closings for the developer or issues owner's or lender's title insurance commitments or policies in connection with such closings. [1999, c. 478, §1 (NEW) .]

[2009, c. 261, Pt. B, §15 (AMD) .]

SECTION HISTORY

1983, c. 248, §3 (NEW). 1997, c. 83, §§1-3 (AMD). 1999, c. 478, §1 (AMD). 2009, c. 261, Pt. B, §15 (AMD).

§593. TAXATION OF TIME-SHARE ESTATES

Notwithstanding the provisions of sections 579 and 580, taxation of time-share estates shall be determined according to this section. [1983, c. 407, §1 (NEW) .]

1. Creation of estates. Notwithstanding any contrary rule of common law, a grant of an estate in a unit conferring the right of possession during a potentially infinite number of separated time periods creates an estate in fee simple having the character and incidents of such an estate at common law, and a grant of an estate in a unit conferring the right of possession during 3 or more separated time periods over a finite number of years equal to 3 or more, including renewal options, creates an estate for years having the character and incidents of such an estate at common law.

[1983, c. 407, §1 (NEW) .]

2. Time-share estates as separate estates. Each time-share estate constitutes for all purposes a separate estate in real property. Each time-share estate must be separately assessed and taxed. In addition to other factors relevant to the valuation of a time-share estate considered by the assessor, the assessor may consider the real property value of the time-share estate declared in the declaration of value, if any, submitted under Title 36, section 4641-D. The filing and discharge of tax liens on more than one time-share estate owned by the same person are governed by Title 36, section 942-A.

[2005, c. 607, §1 (AMD); 2005, c. 607, §3 (AFF) .]

3. Recordation. A document transferring or encumbering a time-share estate may not be rejected for recordation because of the nature or duration of that estate.

[1983, c. 407, §1 (NEW) .]

4. Collection and receipt of money for taxes; tax bills. The managing entity may collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates.

If required by an ordinance enacted by the municipal officers, the managing entity shall collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates. The ordinance must also require that the municipality send the managing entity a tax bill and information necessary to identify the assessed value of each time-share unit. Nothing in this subsection prevents a municipality from sending separate tax bills to each time-share owner.

Any managing entity that collects taxes shall maintain an escrow account and pay the taxes as provided in subsection 5.

[1991, c. 197, §1 (AMD) .]

5. Escrow account. If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity shall place a lien on those time-share estates whose owners have not contributed to the escrow account as provided in section 594, and pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent owner or has foreclosed the lien and sold the time-share estate to a new owner or 10 months from the date of commitment, whichever is earlier. If requested by the municipality, the managing entity shall provide a list identifying those owners and their interests, including the periods of ownership, to the municipal tax collector, who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure described in Title 36, sections 942, 942-A and 943 to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

[2005, c. 607, §2 (AMD); 2005, c. 607, §3 (AFF) .]

6. Unorganized territory. Time-share estates in the unorganized territory must be taxed according to the provisions of this section, and the State Tax Assessor has all the rights and obligations applicable to a municipality or municipal officers.

[2011, c. 2, §36 (COR) .]

7. Effect of foreclosure. A governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency, including, but not limited to, the automatic foreclosure of a tax lien, may not be required to pay for the share of common expenses attributable to the time-share estate during the period the governmental entity owns the time-share estate if the governmental entity does not use the time-share estate. Use by a governmental entity includes, without limitation, leasing or renting the time-share estate. Any unpaid common expenses attributable to the time-share estate accruing during the period of ownership of the time-share estate by the governmental entity may be charged by the owners' association or managing entity to the purchaser of a foreclosed time-share estate when the purchaser acquires title to the unit from the governmental entity. The governmental entity shall disclose in writing to a prospective purchaser of the time-share estate that the purchaser may be charged for the common expenses attributable to the time-share estate accruing during the period of the governmental entity's ownership.

[2005, c. 275, §1 (NEW); 2005, c. 275, §2 (AFF) .]

SECTION HISTORY

1983, c. 407, §1 (NEW). 1987, c. 358, §§1,2 (AMD). 1991, c. 197, §§1,2 (AMD). 2003, c. 229, §1 (AMD). 2005, c. 275, §1 (AMD). 2005, c. 275, §2 (AFF). 2005, c. 607, §§1,2 (AMD). 2005, c. 607, §3 (AFF). RR 2011, c. 2, §36 (COR).

§593-A. UTILITY BILLING FOR TIME-SHARE ESTATES

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Assessment" means any rate, fee or charge assessed or imposed by a utility for the provision of its service to time-share units, other than service that is metered or otherwise measured and billed on an individual time-share owner basis. [2003, c. 526, §1 (NEW).]

B. "Utility" means a public utility as defined in Title 35-A, section 102, sanitary district established under Title 38, chapter 11 or sewer district as defined in Title 38, section 1032, subsection 3 or 4. [2013, c. 555, §5 (AMD).]

[2013, c. 555, §5 (AMD) .]

2. Authority of managing entities. Notwithstanding section 593, subsection 2, when a utility provides services to time-share units, the managing entity may collect and receive money from the time-share owners for the purpose of paying the assessment.

[2003, c. 526, §1 (NEW) .]

3. Authority of utility to require assessment collection. Notwithstanding section 593, subsection 2, on written request of a utility, a managing entity shall collect and receive money from the time-share owners in accordance with this subsection for the purpose of paying assessments.

A. The utility shall provide the managing entity a combined or total utility bill and any additional information that may be reasonably useful for the managing entity to allocate the cost of utility service to the time-share owners. [2003, c. 526, §1 (NEW).]

B. The managing entity shall maintain an escrow account with a financial institution licensed by the State and deposit any money collected or received for the utility's assessments in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the utility. A withdrawal may not be made from the escrow account without the written agreement of the utility. [2003, c. 526, §1 (NEW).]

C. Prior to the delinquency date established by the utility, the managing entity shall pay to the utility all money deposited in the escrow account under paragraph B for the purpose of paying the assessment. If the amount paid from the escrow account is not sufficient to discharge all assessments due and owing:

(1) The managing entity shall pay the difference and, in accordance with section 594, place a lien on those time-share estates whose owners have not contributed their apportioned share to the escrow account; or

(2) At the request of the utility, the managing entity shall provide a list identifying the delinquent owners and their interests, including periods of ownership, and the utility may proceed to collect the assessments from those interests as allowed by law. If the utility uses any lien procedure available to it under law to collect delinquent assessments on time-share estates, any required notice of the lien that the utility sends to a time-share estate owner must also be given to the managing entity or left at the managing entity's last and usual place of abode or the utility must send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the utility may receive \$5 plus all certified mail, return receipt requested fees and the cost of any photocopying. [2003, c. 526, §1 (NEW) .]

[2003, c. 526, §1 (NEW) .]

4. Exercise of other utility authority not precluded. Nothing in this section limits the authority of a utility and a managing entity to make other mutually acceptable arrangements for collection of assessments. Nothing in this section limits the authority of a utility to take any other action available under law to collect and recover assessments.

[2003, c. 526, §1 (NEW) .]

SECTION HISTORY

2003, c. 526, §1 (NEW). 2013, c. 555, §5 (AMD).

§594. LIENS FOR ASSESSMENT

1. Lien created. A managing entity has a lien on a time share for any assessment for expenses of the time share or taxes or fines levied against that time share in accordance with the project instrument or municipal or state law from the time the assessment, tax or fine becomes due. A lien against a time-share estate may be foreclosed as provided in section 595, subsection 1, and a lien against a time-share license may be foreclosed as provided in section 595, subsection 2. Unless the project instrument otherwise provides, fees, charges, late charges, fines and interest charged in accordance with the project instrument are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. The managing entity shall record notice of a lien on a time-share estate in the registry of deeds in the county in which the time-share estate is located. A notice of a lien on a time-share license must be recorded in the public records for the filing of security interests governed by the Uniform Commercial Code. If there is more than one lien, they may be listed in one filing. A copy of the notice of a lien on a time-share estate or time-share license must be sent by first class mail to the last known address of the time-share owner. A notice of a lien on a time-share estate or time-share license must include a statement that the federal Servicemembers' Civil Relief Act of 2003 applies to enforcement of liens when the owner of the time-share estate or time-share license is or was recently in military service.

[2005, c. 572, §1 (RPR) .]

2. Priority. A lien under this section is prior to all other liens and encumbrances on a time share, except:

A. Liens and encumbrances recorded before the recordation of the time-share instrument; [2009, c. 2, §92 (COR) .]

B. Mortgages and deeds of trust on the time share securing first mortgage holders and recorded before the due date of the assessment or the due date of the first installment payable on the assessment; [1983, c. 407, §1 (NEW) .]

C. Liens for real estate taxes and other governmental assessments or charges against the time share; and [1983, c. 407, §1 (NEW) .]

D. Liens securing assessments or charges made by a person managing a project of which the time-share property is a part. This subsection does not affect the priority or mechanics or materialmen's liens. [1983, c. 407, §1 (NEW) .]

[2009, c. 2, §92 (COR) .]

3. Perfection. The lien is perfected upon recording of a notice of lien in the registry of deeds of the county in which the time-share unit is situated.

[1983, c. 407, §1 (NEW) .]

4. Extinguishing lien. A lien for unpaid assessments is extinguished, unless proceedings to enforce the lien are instituted within 3 years after the assessments become payable.

[1983, c. 407, §1 (NEW) .]

5. Other remedies. This section does not prohibit actions or suits to recover sums for which subsection 1 creates a lien or preclude resort to any contractual or other remedy permitted by law.

[1983, c. 407, §1 (NEW) .]

6. Statement furnished. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share owner upon written request a recordable statement setting forth the amount of unpaid assessments currently levied against his time share. The statement shall be furnished within 10 business days after receipt of the request and is binding in favor of persons reasonably relying thereon.

[1983, c. 407, §1 (NEW) .]

SECTION HISTORY

1983, c. 407, §1 (NEW). 2005, c. 572, §1 (AMD). RR 2009, c. 2, §92 (COR).

§595. FORECLOSURE OR COMMERCIAL SALE OF TIMESHARE

1. Nonjudicial foreclosure of time-share estate. A time-share owner may grant to a financial institution or other person a mortgage with a power of sale on that owner's time-share estate that is governed by the terms of this section. The foreclosure of a mortgage with a power of sale or a lien from an assessment created pursuant to section 594 must be conducted pursuant to this section. The provisions of Title 14, chapter 713 do not apply to any such foreclosure.

In the event of a breach of the conditions of the power of sale mortgage or the failure of the time-share owner to pay the assessments as and when due and owing the following procedure must be followed.

A. Upon default, and after all applicable cure periods have expired, the person seeking to foreclose shall provide written notice of the default to the time-share owner at the owner's last known address by certified mail, return receipt requested, and by first class mail and provide a reasonable opportunity to cure of not less than 30 days from the date of the mailing of the notice letter. [2005, c. 572, §2 (NEW) .]

B. If, after expiration of the 30-day period under paragraph A, the time-share owner has not cured the default in the manner prescribed, the person seeking to foreclose shall conduct a public auction under the conditions described in this paragraph.

(1) Notice under this paragraph must be given as follows.

(a) Notice of the sale must be published once in each of 3 successive weeks in a newspaper with a general circulation in the town in which the time-share property is situated. The first publication must be not later than 30 days before the date of the sale, calculated by excluding the date of publication of the first notice and the date of sale.

(b) A written notice of the time, date and place of the auction must be mailed to the last known address of the time-share owner of record by certified mail, return receipt requested, and by first class mail at least 30 days prior to the date of sale. The notice to the time-share owner must include the following language: "You are hereby notified that you have a right to petition the Superior Court or District Court for the county or district in which the time-share estate is located, with service on the foreclosing person, and upon such bond as the court may require,

to enjoin the scheduled foreclosure sale." The notice of sale also must be sent by certified mail, return receipt requested, to all persons having a lien on the time-share estate at least 30 days prior to the date of the foreclosure sale.

(c) The notice must contain:

- (i) The name of the time-share owner;
- (ii) The date, time and place of the foreclosure sale;
- (iii) A general description of the time-share estate; and
- (iv) The terms of the sale.

If more than one time-share estate is to be included in the foreclosure sale, all such time-share estates may be combined into one notice of sale, with one property description, as described in division (d) or (e).

(d) The notice of foreclosure for foreclosing on the lien of a time-share estate must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33, SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of the project instrument of the(name and address of time-share property) and Title 33, section 594 establishing a lien for failure to pay assessments on the time-share estate (or estates, if more than one) held by the time-share owner (or owners, if more than one) listed below, the time-share estate (or estates, if more than one) will be sold at Public Auction commencing at on , 20.. at, Maine. (For each time-share estate, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the deed.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed.....
Lienholder or authorized agent.

(e) For foreclosure of a mortgage lien containing a power of sale on a time-share estate, a notice of sale must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33, SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of Title 33, section 595 and in execution of the power of sale contained in a certain mortgage (or mortgages, if more than one) on the time-share estate (or estates, if more than one) given by the time-share owner (or owners, if more than one) set forth below for breach of the conditions of said mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the same will be sold at Public Auction commencing at on, 20.. at, Maine, being all and singular the premises described in said mortgage (or mortgages, if more than one). (For each mortgage, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed

Holder of Mortgage or authorized agent.

(f) The notice of sale in the forms described in divisions (d) and (e), published in accordance with the provisions of this section, together with such other or further notice, if any, constitutes sufficient notice of the sale.

(2) The foreclosure sale must be conducted pursuant to this subparagraph.

(a) The foreclosure sale must take place on the time-share property or some other location within the same town as the time-share property.

(b) The foreclosure sale must be by public auction, conducted by an auctioneer or attorney licensed to practice in the State. At the discretion of the auctioneer or attorney, the reading of the names of the time-share owners, if more than one, the description of time-share estates, if more than one, and the recording information, if more than one instrument, may be dispensed with.

(c) All rights of redemption of the time-share owner are extinguished upon sale of a time-share estate.

(d) The managing entity, the foreclosing person or any time-share owner may bid at the foreclosure sale. The successful buyer at the foreclosure sale takes title to the time-share estate free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity. A purchaser at a sale is not required to complete the purchase if there are liens and encumbrances, other than those included in the notice of sale, that are not stated at the sale and included in the foreclosing person's contract with the purchaser.

(e) Upon closing, the foreclosing person shall provide the buyer with a foreclosure deed or other appropriate instrument transferring the rights to the time-share estate and an affidavit attesting that all requirements of the foreclosure pursuant to this section have been met. The time-share estate is deemed to have been sold, and the instrument conveying the time-share estate must transfer the time-share estate, subject to municipal or other public taxes and to any liens and encumbrances recorded prior to the recording of the mortgage or the lien for assessments.

(f) The buyer shall record the foreclosure deed or other instrument with the appropriate registry of deeds no more than 30 days after the foreclosure sale date.

(g) Within 30 days after the closing and transfer of the foreclosure deed or other instrument and affidavit, the foreclosing person shall mail a notice detailing the results of the foreclosure sale to the last known address of the former time-share owner and all parties that held a junior interest to that of the foreclosing person. [2007, c. 466, Pt. A, §55 (AMD).]

[2007, c. 466, Pt. A, §55 (AMD) .]

2. Foreclosure of lien or security interest on time-share license. In the case of a time-share license, the following must be conducted by public or private sale in accordance with the provisions of Title 11, section 9-1610:

A. The foreclosure of a lien on a time-share estate pursuant to section 594 for failure to pay assessments when due; or [2005, c. 572, §2 (NEW) .]

B. The exercise of the rights of a holder of a security interest in a time-share license for breach of the terms of the instrument granting the security interest. [2005, c. 572, §2 (NEW) .]

All rights of redemption of a time-share owner are extinguished upon the consummation of the sale proceedings. The managing entity, the foreclosing person or any time-share owner may bid at the sale or may enter into agreements for the purchase of one or more time-share licenses following the completion of sale proceedings. The successful buyer takes title to the time-share license free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity.

[2005, c. 572, §2 (NEW) .]

3. Foreclosure of mortgage not containing power of sale. In the event of a breach of the conditions of a mortgage on a time-share estate that does not contain a power of sale, the holder of the mortgage may conduct a nonjudicial foreclosure of the interest of the time-share owner in the time-share estate pursuant to subsection 1 if, at the same time the holder gives written notice of default to the time-share owner as provided in subsection 1, paragraph A, the holder also gives written notice to the time-share owner stating that unless the time-share owner objects in writing to the nonjudicial foreclosure within the 30-day period required by subsection 1, paragraph A, the holder will proceed to conduct the foreclosure pursuant to subsection 1. The holder must explain in the notice that the time-share owner has the right to a judicial foreclosure conducted pursuant to Title 14, chapter 713 if the owner asserts the objection within the specified time period and must include with the notice an objection form together with an envelope addressed to the holder. Failure of a time-share owner to object as required by this subsection in a timely manner is deemed a waiver of the owner's right to a judicial foreclosure pursuant to Title 14, chapter 713, which may include judicial foreclosure by way of court action.

[2005, c. 572, §2 (NEW) .]

4. Forfeiture of deficiency claim. If the holder of the mortgage conducts a nonjudicial foreclosure pursuant to this section, the holder forfeits the holder's right to pursue a claim for any deficiency in the payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to such obligations.

If the holder of a security interest in a time-share license conducts a nonjudicial foreclosure pursuant to this section, the holder forfeits the holder's right to pursue a claim for any deficiency in the payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to such obligations.

[2005, c. 572, §2 (NEW) .]

SECTION HISTORY

2005, c. 572, §2 (NEW). 2007, c. 466, Pt. A, §55 (AMD).

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