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Timeshares have mandatory assessments just like planned communities and condominiums. If a timeshare owner does not pay these assessments, the owner's timeshare interest may be subject to an assessment lien that, if left unpaid, could result in the foreclosure of the timeshare.

SB 1258 creates Arizona Revised Statute § 33-2211 and will have a dramatic impact on timeshare foreclosures. Under the old law, a timeshare association was typically required to file a foreclosure suit to foreclose on liens arising from delinquent assessments. The new law will permit an association to notice a Trustee's Sale of a timeshare interest if the owner has been delinquent for one year. A Trustee's Sale is a sale of property by a third party appointed by the association (the Trustee) to conduct the sale.

This is good news for timeshare associations. Trustee's Sales are generally quicker and less expensive than judicial foreclosures because they do not require the involvement of the court.

The new law, however, sets forth very specific notice requirements for a Trustee's Sale. For example, the association must (i) mail notice of the Trustee's Sale by certified mail to the owner's last known address and post notice in specific places, and (ii) record the notice in the county where the timeshare is located. If the owner does not object within 30 days from the day the notice was mailed, the Trustee may hold the Trustee's Sale to satisfy the association's assessment lien.

It is important to note that the new law does not permit a Trustee's Sale if the association's declaration expressly requires judicial foreclosure. Also, if the delinquent owner purchased the timeshare before January 1, 2009, the owner can prevent the sale by completing a special form and returning it to the association within 30 days of receiving notice of the sale.

This law goes into effect September 26, 2008 and does not apply to planned communities or condominiums.

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