



# HOUSE BILL 992: Timeshare Foreclosures.

2025-2026 General Assembly

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<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	May 6, 2025
<b>Introduced by:</b>	Reps. Cairns, Tyson, Ross, Winslow	<b>Prepared by:</b>	Aaron McGlothlin*
<b>Analysis of:</b>	Second Edition		Staff Attorney

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**OVERVIEW:** *House Bill 992 would create the timeshare trustee foreclosure process as an alternative to judicial foreclosure for recovering delinquent assessments against timeshare owners.*

**CURRENT LAW:** The managing entity of a timeshare assesses certain fees against the owner of a timeshare to cover that owner's share of the common expenses. Common expenses include any expenses, fees, or taxes that are incurred for the maintenance, operation and repair of the timeshare units or facilities. If an owner is delinquent on an assessment, the managing entity has a lien on that timeshare for the delinquent assessment and a lien for the cost of any maintenance, repairs, or replacements that result from any damage to the timeshare property. If an owner of a timeshare is delinquent on these assessments, the managing entity or holder of the lien must file a claim of lien. The managing entity or holder of the lien may then bring a judicial action to foreclose the claim of lien in the same manner as a mortgage or deed of trust on real estate. Alternatively, the managing entity may foreclose an assessment lien in the same manner as a mortgage or deed of trust on real estate under a power of sale.

Article 2A of Chapter 45 of the General Statutes governs sales under a power of sale. To initiate a sale under a power of sale, the trustee must file a notice of hearing with the clerk of superior court where the property is located and serve the notice of hearing upon any person specified in the security interest instrument, any person obligated to repay the indebtedness, and every record owner of the real estate whose interest is recorded. The notice must contain certain information to provide adequate notice regarding the potential sale of real property, including a description of the property, the name and address of the holder of the lien, nature of the claimed default, and any right of the owner to pay the debt.

After filing the notice of hearing, the clerk of superior court may then conduct a hearing to determine if there is a valid debt, if there is a default on the debt, if there is a right to foreclose, and if notice was properly provided to all required parties. If the clerk determines that these elements are satisfied, the clerk may enter an order of sale and the trustee may proceed with the sale.

**BILL ANALYSIS:** House Bill 992 would create the timeshare trustee foreclosure process as an alternative to judicial foreclosure, to facilitate the recovery of delinquent assessments owed by a timeshare owner that have been unpaid for six months or more. Under the timeshare trustee foreclosure procedure, a managing entity or lienholder could secure a final judgment authorizing foreclosure, upon the docketing and indexing of a certificate filed with the clerk of superior court that shows the following information pertaining to a delinquent assessment unpaid for over six months: (i) the record owner of the timeshare on which there is a lien for unpaid assessments, together with the amount of assessments and other costs covered by the lien; (ii) the year or years for which the assessments are due; (iii) a description of the

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timeshare sufficient to permit its identification by parol testimony; and (iv) the filing information for the claim of lien if previously filed with the clerk of the superior court.

Prior to filing this certificate with the clerk of superior court, the managing entity or lienholder would have to: (i) send the timeshare owner a written statement of the delinquent assessment amount; (ii) at least 15 days after sending the statement of delinquent assessment, submit a claim of lien with the timeshare owner and file the claim of lien with the clerk of the superior court; and (iii) send the timeshare owner a notice of the assessment lien foreclosure, accompanied with an objection form.

The owner of the timeshare estate would have at least 30 days after receiving a notice of the assessment lien foreclosure to object to the use of the timeshare trustee foreclosure proceeding. Upon objection, (i) the timeshare could only be foreclosed by filing a judicial foreclosure action, and (ii) the timeshare owner and any successor that acquires title to the timeshare would remain subject to the possibility of a deficiency judgment, if the proceeds from the sale of the timeshare are insufficient to offset the amounts secured by the lien. Alternatively, a timeshare owner who does not object to the timeshare trustee foreclosure process would no longer be subject to a deficiency judgment, even if the proceeds from the sale of the timeshare interest were insufficient to offset the amounts secured by the lien.

Under the timeshare trustee foreclosure process, the managing entity or lienholder must appoint a trustee to conduct the public sale of the timeshare estate, which must be conducted sometime between 30-days and one year from the indexing of judgment which directs the sale of the timeshare. On the date of sale and upon receipt of cash or certified funds, the trustee must issue a certificate of sale to the highest bidder. Within 10 calendar days of the sale, the trustee must file a certificate of compliance with the clerk of superior court and issue a trustee's deed to the buyer.

At any time prior to the issuance of a certificate of sale, the timeshare owner and anyone else entitled to notice as an interested party may appear before the clerk of superior court and move to set aside the judgment on the ground that the assessment has been paid or that the assessment lien on which the judgment is based is invalid.

In addition, the bill would provide that a claim of lien securing a debt that only consists of fines, interest on unpaid fines, or attorney's fees incurred from attempting to impose fines, could only be enforced by the judicial foreclosure process.

The bill would validate certain timeshare foreclosure proceedings that were commenced prior to March 1, 2026, unless an action to set aside the foreclosure is commenced on or before March 1, 2026, or within one year after the date of the foreclosure sale, whichever occurs last.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law, and would apply to claims of lien filed on or after that date.

*\*Hillary Woodard, staff attorney with the Legislative Analysis Division, substantially contributed to this summary.*