

# WEST VIRGINIA CODE: §36-9-15A

## **§36-9-15a. Trustee's sale of timeshare estates.**

(a) A managing entity that desires to use a trustee sale shall prepare, execute and acknowledge a notice of trustee sale which shall include the following:

- (1) The time and place of sale;
- (2) The names of the parties to the deed under which it will be made;
- (3) The date of the deed;
- (4) The office and book in which it is recorded;
- (5) The terms of sale;
- (6) The nature and amount of the owner's current delinquency;
- (7) The legal description of the owner's timeshare estate;
- (8) The name and address of the association or other managing entity; and
- (9) The name and address of the trustee designated by the association or managing entity to conduct the trustee sale.

(b) The managing entity shall record the notice of trustee sale with the clerk of the county commission of the county in which the timeshare estate is located and shall mail by certified mail, return receipt requested, a copy of the notice of trustee sale to the owner listed in the notice at the last address for each delinquent timeshare period according to the records of the managing entity, and, to any holder of a lien or security interest against the timeshare estate being sold, other than the state and the managing entity. To the extent the owner is unable to be located, notice under this subsection is satisfied by notice by publication as provided in subsection (c) of this section.

(c) At least thirty days prior to the date of the trustee sale, the notice of trustee sale shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the county where the property is located.

(d) A trustee appointed in a notice of delinquency may conduct a trustee sale of a timeshare estate under this section. The recording of a notice of trustee sale shall satisfy all requirements for the trustee to appear in the chain of title for the timeshare estate in order for the trustee to be entitled to issue a trustee deed on completion of a trustee's sale for the timeshare estate.

(e) If the delinquencies identified in a notice of trustee sale are not cured within thirty days after the managing entity mails the notice of trustee sale pursuant to subsection (b) of this section, and publication is made under subsection (c) of this section, the managing entity may cause the trustee to conduct a trustee's sale of the delinquent owner's timeshare estate at public auction.

(f) The trustee's sale may include multiple timeshare estates owned by an owner if the owner is delinquent in payment of assessments for all of the timeshare estates included in the trustee's sale proceeding. The trustee's sale may include timeshare estates owned by multiple owners if the notice of trustee's sale provides all information required by this section for each owner and timeshare estate and each timeshare estate is sold separately.

(g) This section shall not apply to any timeshare property if the timeshare instrument expressly mandates that judicial foreclosure is the sole method for the managing entity to foreclose or liquidate a lien securing payment of assessments due to the managing entity.

(h) When a sale of property is made under any trustee deed, there shall, within two months after the sale, be returned by the trustee, to the clerk of the county commission of the county wherein such deed may have been first recorded, an inventory of the property sold and an account of the sale. The clerk of the county commission shall record the same, as provided in section nine, article one, chapter thirty-eight of this code. When a report of the sale of the property sold pursuant to a trustee deed is placed on record by the trustee with the clerk of the county commission as provided in section eight of this article, the trustee shall include in a disclosure form submitted with and made a part of the report of sale the information identified in section eight-a, article one, chapter thirty-eight of this code, to the extent applicable.

(i) If notice is given as provided in this section, no action or proceeding to set aside a trustee sale due to the failure to follow any notice, service, process or other procedural requirement relating to a sale of property under a timeshare instrument, shall be filed or commenced more than one year from the date of the sale.