
A BILL FOR AN ACT

RELATING TO TIME SHARE PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 514E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§514E- Existing owner purchase exemptions. (a)

5 Notwithstanding any other provision of this chapter, the offer
6 or sale of an additional interest in a time share plan in this
7 State to an existing purchaser in the same time share plan shall
8 not be subject to this chapter if:

9 (1) The contract for purchase signed by the purchaser
10 includes a notice, which is the same as or similar to
11 the rescission notice required pursuant to section
12 514E-9(a)(7), and the rescission period shall be at
13 least seven days;

14 (2) In satisfaction of the disclosure requirements of
15 section 514E-9, the purchaser is provided the time
16 share disclosure documents the purchaser would have
17 received if the purchase had occurred in the state or



1 jurisdiction where the purchaser initially purchased
2 the time share interest;

3 (3) All funds and any negotiable instruments received
4 during the seven day rescission period are placed in
5 an escrow account in Hawaii. The escrow agent shall
6 be a bank, savings and loan association, or trust
7 company authorized to do business in the State under
8 an escrow arrangement or a corporation licensed as an
9 escrow depository under chapter 449;

10 (4) The contract for purchase shall contain the following
11 statement in conspicuous type:

12 This timeshare plan has not been reviewed or
13 approved by the State of Hawaii;

14 (5) The offer complies with sections 514E-11(2)-(9),
15 (11)-(12) and 514E-11.1;

16 (6) The developer or an affiliated entity of the developer
17 has a time share plan currently registered with the
18 department; provided that the registration was
19 originally approved or amended within seven years from
20 the date of the offer or disposition and the
21 registration has been neither terminated nor
22 withdrawn; and



1 (7) The developer has not, during the two year period
2 preceding the time of the offer, had a timeshare
3 registration suspended, restricted or revoked in any
4 state.

5 (b) Notwithstanding any other provision of this chapter,
6 the offer or sale in this State by a developer of a time share
7 interest in a time share plan located outside of Hawaii, but
8 within the United States, to an individual who currently owns a
9 timeshare interest that was purchased from that developer, or
10 from an affiliated entity of that developer, shall be exempt
11 from the requirements under sections 514E-3, 514E-4, 514E-5,
12 514E-6, 514E-7, 514E-10.5, and 514E-14; the disclosure statement
13 requirements under sections 514E-9 and 514E-11(1); and the
14 registration requirements under section 514E-10; provided that:

15 (1) The developer shall provide the purchaser with all
16 time share disclosure documents required to be
17 provided to purchasers as if the offer occurred in the
18 state where the time share plan is located;

19 (2) The contract for purchase shall include a notice,
20 which is the same as or similar to the rescission
21 notice required pursuant to section 514E-9(a)(7), and
22 the rescission period shall be at least seven days;



1 (3) In satisfaction of section 514E-16, all funds and any
2 negotiable instruments received during the seven day
3 rescission period shall be placed in an escrow account
4 in Hawaii. The escrow agent shall be a bank, savings
5 and loan association, or trust company authorized to
6 do business in the State under an escrow arrangement
7 or a corporation licensed as an escrow depository
8 under chapter 449;

9 (4) The developer shall provide the purchaser, in writing,
10 either in the disclosure documents or otherwise, all
11 of the following:

12 (A) A description of the type of timeshare plan
13 offered, including the duration and operation of
14 the timeshare plan;

15 (B) A description of the existing or proposed
16 accommodations and amenities in the timeshare
17 plan;

18 (C) A description of the method and timing for
19 performing maintenance on the accommodations;

20 (D) If applicable, copies of the declaration,
21 association articles of incorporation,



1 association bylaws, and association rules and
2 regulations; and

3 (E) The current annual budget for the time share
4 plan;

5 (5) The developer or an affiliated entity has a time share
6 plan currently registered with the department;
7 provided that the registration was originally approved
8 or amended within seven years from the date of the
9 offer or disposition and the registration has been
10 neither terminated or withdrawn;

11 (6) The timeshare plan being offered is registered in the
12 state where the timeshare plan is located; or in the
13 event registration of the timeshare plan is not
14 required in the state where the timeshare plan is
15 located, the timeshare plan being offered is in
16 compliance with the applicable laws of that state;

17 (7) The developer has not, during the two year period
18 preceding the time of the offer, had a timeshare
19 registration suspended, restricted or revoked in any
20 state; and

21



1 (8) The contract for purchase shall contain the following
2 statements in conspicuous type:

3 "This timeshare plan has not been reviewed or
4 approved by the State of Hawaii. The timeshare
5 interest you are purchasing requires certain
6 procedures to be followed in order for you to use
7 your interest. These procedures may be different
8 from those followed in other timeshare plans.
9 You should read and understand these procedures
10 prior to purchasing."

11 (c) The developer of an out-of-state timeshare plan
12 offered pursuant to subsection (b) shall be required to provide
13 notice of the plan to the department on a form as set forth
14 under subsection (e), along with payment of a one-time fee of
15 \$1,000 per time share plan. Upon receipt by the department of
16 the notice and fee, the filing shall be deemed accepted and the
17 offering of the time share plan will be permitted in accordance
18 with the terms of this section.

19 (d) If at any time the department determines that any
20 requirement under this section has not been complied with, the
21 developer shall be subject to any remedies set forth in section
22 514E-12.



1 (e) The notice as described in subsection (c) shall be
2 signed by an officer or principal of the developer and shall
3 contain the following information:

4 (1) The name and principal address of the developer;

5 (2) The name and address of the time share plan being
6 offered;

7 (3) The name and address of the managing entity of the
8 time share plan;

9 (4) The form of business entity of the developer; and

10 (5) The name, address, and telephone number of the officer
11 or principal signing the notice on behalf of the
12 developer.

13 (f) For purposes of this section:

14 "Affiliated entity" means a person or other entity that,
15 directly or indirectly through one or more intermediaries, is
16 controlled by or under common control with the developer.

17 "Control", "controlled by", or "under control with" means
18 the possession of the power to direct or cause the direction of
19 the management and policies of another person or entity, other
20 than by commercial contract for goods or services. Control
21 shall be presumed to exist if:



1 (A) The developer has an ownership interest of at least
2 fifty per cent in the other person or entity; or

3 (B) The developer has the same parent corporation as the
4 other entity."

5 SECTION 2. New statutory material is underscored.

6 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Time Share Plans; Existing Owner Purchase Exemption

Description:

Exempts the offer or sale of a time share interest from the time share law if the offer or sale is for an additional interest in the same time share plan to an existing owner. Exempts a time share developer or an affiliated entity under common ownership from registration if they are selling a time share interest in a time share plan located outside of Hawaii to an individual who currently owns a time share interest that was purchased from that developer or affiliated entity. (SD1)

