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# 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 that is the same as or similar to  
11           the rescission notice required pursuant to section  
12           514E-9(a)(7) and the rescission period is at least  
13           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 contains 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 section 514E-11(2) to (9),  
15          (11), and (12) and section 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          director; 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21          registration has not been terminated or withdrawn; and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 that  
20      is the same as or similar to the rescission notice  
21      required pursuant to section 514E-9(a)(7), and the  
22      rescission period is 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, the  
11       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 director; provided  
7           that the registration was originally approved or  
8           amended within seven years from the date of the offer  
9           or disposition and the registration has been neither  
10           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           (8) The contract for purchase shall contain the following  
22           statements in conspicuous type:



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

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

17          (d) If at any time the director determines that any  
18          requirement under this section has not been complied with, the  
19          developer shall be subject to any remedies set forth in section  
20          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        (1) The developer has an ownership interest of at least  
2        fifty per cent in the other person or entity; or  
3        (2) 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. (SB2026 SD2)

