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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
WAYS AND MEANS

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Friday, February 22, 2008
11:00 a.m.

WRITTEN COMMENTS

**TESTIMONY ON SENATE BILL NO. 2026, S.D. 1, RELATING TO TIME SHARE
PLANS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lori Beth Van Cantfort, Time Share Administrator, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). I thank you for the opportunity to present written comments on Senate Bill No. 2026, S.D. 1, Relating to Time Share Plans. The Department still has concerns with the S.D. 1 as there are issues which have not been addressed in order for the Department to support the bill. Should your Committee wish to pass this bill out and, subject to retention of the

defective effective date to encourage further discussion, the Department would have no objections.

The purpose of this bill is to (1) allow registered developers, or their affiliates, to sell additional time share interests to existing owners of an out-of-state time share plan that is not registered in Hawaii, and (2) allow registered developers, or their affiliates, to sell time share interests in an out-of-state time share plan that has not been registered in Hawaii to anyone who owns an interest in any of the developer's time share plans.

The first proposed exemption would allow a developer to sell intervals in an out-of-state time share plan that is not registered in Hawaii to anyone who already owns an interval in that unregistered time share plan if the developer meets certain conditions and either (a) has a currently registered time share plan in Hawaii or (b) is affiliated with a developer who has a currently registered time share plan in Hawaii. The Department supports allowing currently registered developers to sell additional intervals to existing owners without registering that time share plan first. These purchasers are current owners and should know what they are buying. **However**, the Department does not support allowing this exemption for developers who are merely affiliated with a currently registered developer. The Department may have no record of these unregistered developers and whether they have a history of honesty, truthfulness and fair dealing. The fact that the developer's affiliate is registered in Hawaii and is reputable does not necessarily mean the unregistered developer is reputable. **The Department could support this exemption if it does not apply to unregistered developers whose affiliates are registered in Hawaii.**

The second proposed exemption goes further and would allow a developer to sell intervals in an out-of-state time share plan that is not registered in Hawaii to anyone who owns any time share interest purchased from the developer or from an affiliate of the developer so long as the developer or an affiliate meets certain conditions and has a currently registered time share plan in Hawaii. Unlike the prior exemption, purchasers in this situation would not know what they are purchasing. The time share plan they are buying may be significantly different from the time share plan they already own. Also, the developer would not be required to have a currently registered time share plan in Hawaii if an affiliate is registered in Hawaii. Again, we would know nothing about the unregistered developer to protect consumers' interests.

The S.D. 1 amendments include (1) adding additional requirements that developers must comply with before they may claim the exemption and (2) adding a defective effective date. While some of the Department's concerns have been addressed with these amendments, there are still outstanding issues that the parties are continuing to discuss. These issues include:

- Escrow requirements prior to closing – Developers should be required to comply with Hawaii's escrow requirements; however, following the requirements of the Florida law, the escrow account may be maintained in the situs jurisdiction, provided the escrow agent submits to personal jurisdiction in Hawaii.

- Whether the exemption should also apply to affiliates of registered developers – The exemption should only apply to currently registered developers and not their affiliates.

The Department will continue to work with the interested parties to resolve the outstanding issues. Thank you for the opportunity to present written comments.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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February 20, 2008

TO: Senator Rosalyn H. Baker
Chair, Senate Committee on Ways and Means
Hawaii State Capitol, Room 210
Via Email: testimony@capitol.hawaii.gov

FROM: Gary M. Slovin

RE S.B. 2026, SD1 - Relating to Time Share Plans
Hearing Date: Friday, February 22, 2008 @ 11:00 a.m., Room 211

Dear Chair Baker and Members of the Committee on Ways and Means:

I am Gary Slovin testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We strongly support S.B. 2026, SD1 as it proposes to address an omission in the Hawaii Revised Statutes that does not allow the sale of an additional interest in a timeshare plan to an existing customer in Hawaii when the timeshare plan is not registered in Hawaii. S.B. 2026, SD1 would allow an entity in Hawaii to sell additional interests to its existing owners, without having to satisfy all of the Hawaii registration requirements but would still provide substantive consumer protection safeguards.

Currently, if an existing timeshare owner who previously purchased from Wyndham wants to purchase additional interests from Wyndham while in Hawaii, that owner is not able to do so if the plan is not registered in Hawaii.

Rather, Wyndham must have the owner travel to where the property is located in order to offer the additional interest, creating unnecessary cost and inconvenience.

In Hawaii, the sale of the additional interests in a timeshare would be managed by individuals who hold a Hawaii real estate license. The consumer could therefore seek relief through the DCCA in the event the consumer felt there had been a violation of Hawaii law. The

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consumer could also seek recourse through the Hawaii Attorney General's office if there was an allegation of fraud or a deceptive practice. In the states that have a similar law in place, there have not been consumer complaints in relation to the sales of additional interests. Existing customers already have an established relationship with the time share developer and want to purchase additional interests because they have had positive experiences with their original purchase from the developer.

We have been working diligently with Lori Beth Van Cantfort, the State's Timeshare Administrator, to address the concerns of the administration and feel confident that all concerns can be appropriately addressed.

Timeshares play an integral role in Hawaii's tourism offerings. Passage of this bill would remove the present barrier and allow the sales of additional interests to our existing owners and allow us to service our owners in the state of Hawaii. We respectfully ask for your support of S.B. 2026, SD1.

Thank you very much for your consideration and for this opportunity to submit testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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February 20, 2008

TO: Senator Rosalyn H. Baker
Chair, Senate Committee on Ways and Means
Hawaii State Capitol, Room 210
Via Email: testimony@capitol.hawaii.gov

FROM: Joanna Markle
S.B. 2026, SD1 - Relating to Time Share Plans
Hearing Date: Friday, February 22, 2008 @ 11:00 a.m., Room 211

Dear Chair Baker and Members of the Committee on Ways and Means:

I am Joanna Markle testifying on behalf of Group RCI, the leading global provider of leisure travel services to businesses and consumers, and the worldwide leader in timeshare exchange. RCI employs 5,500 people in more than 50 worldwide locations, and has more than 3,700 resorts registered to their exchange network worldwide. Many of our affiliates are resort operators in Hawaii, such as Hilton, Shell, and Wyndham Vacation Ownership.

We strongly support S.B. 2026, SD1 as it proposes to address an omission in the Hawaii Revised Statutes that does not allow the sale of an additional interest in a timeshare plan to an existing customer in Hawaii when the timeshare plan is not registered in Hawaii. S.B. 2026, SD1 would allow an entity in Hawaii to sell additional interests to its existing owners without having to satisfy all of the Hawaii registration requirements, but would still provide substantive consumer protection safeguards.

In the states that have a similar law in place, there have not been consumer complaints in relation to the sales of additional interests. Existing customers already have an established relationship with the time share developer, and want to purchase additional interests because they have had positive experiences with their original purchase from the developer.

Timeshares play an integral role in Hawaii's tourism offerings. Passage of this bill would remove the present barrier and allow the sales of additional interests to our existing owners and allow us to service our owners in the state of Hawaii. We respectfully ask for your support of S.B. 2026, SD1.

Thank you very much for this opportunity to submit testimony.



American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

February 22, 2008

TO: Senator Rosalyn Baker, Chair
Senator Shan Tsutsui, Vice Chair
Senate Committee on Ways and Means

FROM: ARDA-Hawaii
Contact: Donalyn Dela Cruz, PMCI Hawaii

RE: **WAM Hearing**
Friday, February 22, 2008
Room 211, 11:00 a.m.
Senate Bill 2026, SD1; Relating to Timeshares Plans

Dear Chair Baker, Vice-Chair Tsutsui, and members of the committees:

The American Resort Development Association (ARDA)-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for over eight percent of the State's lodging inventory.

ARDA-Hawaii **supports** SB 2026, SD1, which proposes to exempt the offer or sale of a timeshare interest from the timeshare law if the offer or sale is for an additional interest in the same timeshare plan to an existing owner.

ARDA understands that there is a cooperative effort being made on solidifying language that is acceptable to the Department of Commerce and Consumer Affairs.

Thank you very much for the opportunity to offer testimony on this measure.

**SENATE COMMITTEE ON
WAYS AND MEANS**

February 22, 2008

SB 2026, SD 1 Relating to Time Share Plans

Chair Baker and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing Marriott International, Inc. (Marriott).

Marriott supports Senate Bill 2026, SD 1 Relating to Time Share Plans. This bill would allow an existing owner of time share interests to purchase additional interests in other projects of the same developer or an affiliate of that developer. This would mean an owner of a Marriott time share interest in say Orlando who lives in Hawaii could purchase an additional time share interest in a Marriott project in Las Vegas without Marriott registering that Las Vegas project in Hawaii. In order to provide some deference to consumers who reside in Hawaii, we have agreed to the inclusion of several requirements, including allowing a rescission period which is governed by Hawaii law. Moreover, the developer must have a time share plan currently registered in the State of Hawaii in order to solicit the Hawaii consumer even if that consumer does not own an interest in that Hawaii project. Similar bills have been enacted in other jurisdictions, and while there is no definitive model, we believe that the proposal before you provides more than adequate safeguards for Hawaii consumers.

We continue to meet with the Department of Commerce and Consumer Affairs and are in agreement with the vast majority of the amendments proposed. However, we are still discussing the definition of "affiliates".

For these reasons we request that you pass Senate Bill 2026, SD 1 so that we may continue our discussions with the Department. Thank you for the opportunity to present this testimony.