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

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

AND

TO THE SENATE COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, February 4, 2008
9:00 a.m.

RECEIVED
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10:00 AM

TESTIMONY ON SENATE BILL NO. 2026, RELATING TO TIME SHARE PLANS.

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR,
TO THE HONORABLE CLARENCE K. NISHIHARA, CHAIR,
AND MEMBERS OF THE COMMITTEES:

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 testimony on Senate Bill No. 2026, Relating to Time Share Plans. The Department has concerns with this bill which need to be addressed before the Department can support it.

The bill seeks 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 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 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. However, the Department could support such an exemption provided the following amendments are made:

1. The out-of-state time share plan must be located in the United States;
2. The out-of-state time share plan must be registered in the situs state;
3. The situs state must have registration requirements equivalent to Hawaii's registration requirements with regard to disclosure requirements and blanket lien protections;
4. All moneys collected from the purchasers must be held in a Hawaii escrow account during the seven day rescission period;
5. A disclosure that the time share plan is not registered in Hawaii must be given to all purchasers;
6. The developer must not have had any disciplinary actions, license denials or convictions directly related to its time share operations or involving an act of fraud or dishonesty within the past 2 years, in this State or in any other state;
7. Following the practice of the state of Florida, developers must file a notice with the Department prior to selling the out-of-state time share plan and pay a \$1,000 fee;
8. The exemption only applies to currently registered developers and not those who are merely affiliated with a currently registered developer.

The Department has been working with the proponents of the bill to address the Department's concerns. The Department believes that further discussions are needed

Testimony on Senate Bill No. 2026
Monday, February 4, 2008
Page 4

at this time and therefore respectfully requests that a defective effective date be inserted to give the parties an opportunity to continue discussions. H.B. No. 2372 is the companion bill to this bill and was passed by the House Committee on Tourism and Culture with a defective effective date of July 1, 2025 to provide the parties the opportunity to further discuss the bill.

Thank you for the opportunity to testify.

MONARCH PROPERTIES, Inc.

**Testimony to Senate Sergeant-At-Arms Office via facsimile: 586-6659
CPH Committee Hearing at 9:00a.m. on 2/4/08; Conference Room 229**

February 1, 2008

Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Committee On Commerce, Consumer Protection and Affordable Housing

RE: SB3196; Relating to Lease to Fee Conversion

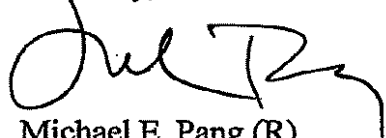
Dear Senator Kokubun and Committee members:

My company, Monarch Properties, Inc., (MPI) has been involved in the majority of bulk fee conversion transactions in the state over the past few years.

MPI supports the intent of SB 3196 to amend Chapter 514C to preserve the legislature's original intent that condominium and co-op lessees should have a right of first refusal to purchase their leased fee if the owner plans to sell it. If this right is not protected, it would be too easy for landowners to simply wait for leases to expire in order to reveal their true plans and the consequence could be the displacement of thousands of mostly low to moderate income folks who would be hard pressed to find affordable replacement homes.

Please feel free to contact me at 735-0000 if I can be of any assistance.

Sincerely,



Michael E. Pang (R)
Principal Broker

SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION AND
AFFORDABLE HOUSING

and

SENATE COMMITTEE ON
TOURISM AND GOVERNMENT OPERATIONS

February 4, 2008

SB 2026 Relating to Time Share Plans

Chair Kokubun, Chair Nishihara, members of the Senate Committee on Commerce, Consumer Protection and Affordable Housing, and members of the Senate Committee on Tourism and Government Operations, I am Rick Tsujimura, representing Marriott International, Inc. (Marriott).

Marriott supports Senate Bill 2026 in its present form. 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.

For these reasons we request that you pass Senate Bill 2026 unamended. Thank you for the opportunity to present this testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN, ESQ.
CHRISTOPHER G. PABLO, ESQ.
ANNE T. HORIUCHI, ESQ.
MIHOKO E. ITO, ESQ.
JOANNA J. H. MARKLE*
LISA K. KAKAZU**

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February 1, 2008

TO: Senator Russell S. Kokubun
Chair, Senate Committee on Commerce, Consumer Protection, and
Affordable Housing
Hawaii State Capitol, Room 407

Senator Clarence K. Nishihara
Chair, Senate Committee on Tourism and Government Operations
Hawaii State Capitol, Room 213

Via Email: testimony@capitol.hawaii.gov

FROM: Gary M. Slovin
RE S.B. 2026 - Relating to Time Share Plans
Hearing Date: Monday, February 4, 2008 @ 9:00 a.m.

Dear Chairs Kokubun and Nishihara and Members of the Committee on Commerce, Consumer Protection, and Affordable Housing and Tourism and Government Operations:

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 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 would allow an entity in Hawaii to sell additional interests to their existing owners, without having to satisfy all of the Hawaii registration requirements, but still provides substantive consumer protection safeguards.

February 1, 2008

Page 2

Currently, if an existing timeshare owner who previously purchased from Wyndham wants to purchase additional interests from Wyndham while in Hawaii, they are 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 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 in most cases, 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 barrier to allow the sales of additional interests to our existing owners and allows us to service our owners in the state of Hawaii. We respectfully ask for your support of S.B. 2026.

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

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN, ESQ.
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February 1, 2008

TO: Senator Russell S. Kokubun
Chair, Senate Committee on Commerce, Consumer Protection, and
Affordable Housing
Hawaii State Capitol, Room 407

Senator Clarence K. Nishihara
Chair, Senate Committee on Tourism and Government Operations
Hawaii State Capitol, Room 213

Via Email: testimony@capitol.hawaii.gov

FROM: Joanna Markle
S.B. 2026 - Relating to Time Share Plans
Hearing Date: Monday, February 4, 2008 @ 9:00 a.m.

Dear Chairs Kokubun and Nishihara and Members of the Committee on Commerce,
Consumer Protection, and Affordable Housing and Tourism and Government
Operations:

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 have 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 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 would allow an entity in Hawaii to sell additional interests to their existing owners without having to satisfy all of the Hawaii registration requirements, but still provides substantive consumer protection safeguards.

February 1, 2008

Page 2

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 in most cases, 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 barrier to allow the sales of additional interests to our existing owners and allows us to service our owners in the state of Hawaii. We respectfully ask for your support of S.B. 2026.

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 4, 2008

TO: Senator Russell Kokubun, Chair
Senator David Ige, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Affordable Housing

Senator Clarence Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Senate Committee on Tourism & Government Operations

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

RE: **Joint Senate Committees, CPH/TSG**
Monday, February 4, 2008
Room 229, 9:00 a.m.
Senate Bill 2026; Relating to Timeshares Plans

Dear Chair Kokubun, Chair Nishihara, Vice-Chair Ige, Vice-Chair Mercado Kim, and members of the committees:

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.

SB 2026 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-Hawaii **supports the concepts** behind SB 2026 and acknowledges that the timeshare industry will continue to work with the Department of Commerce and Consumer Affairs to draft language that will be acceptable to all parties.

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