

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO GEOGRAPHIC LIMITATIONS ON TIME SHARES.

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

1           SECTION 1. Section 514E-5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§514E-5 Geographic limitations.** Except as provided in  
4 this section, time share units, time share plans, and transient  
5 vacation rentals are prohibited.

6           (1) Existing time share units, time share plans, and  
7 transient vacation rentals are not impaired by the  
8 provisions of this section.

9           (2) Time share units, time share plans, and transient  
10 vacation rentals are allowed:

11           (A) In areas designated for hotel use, resort use, or  
12 transient vacation rentals, pursuant to county  
13 authority under section 46-4, or where the  
14 county, by its legislative process, designates  
15 hotel, transient vacation rental, or resort use;

16           or



# S.B. NO. 1113

1 (B) In a hotel where the county explicitly approves  
2 such use, in advance, as a nonconforming use[~~+~~  
3 ~~or~~].

4 [~~(C) In a county with a population in excess of five  
5 hundred thousand, in an existing hotel which is a  
6 valid nonconforming use under county ordinance;  
7 provided that the property shall have at least  
8 sixty units and at least forty per cent of the  
9 units, upon completion of sales of the time share  
10 intervals in the project, shall be made available  
11 for sale as residential apartments or rented as  
12 residential apartments.]"~~

13 SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Clarence W. Bushman*  
*S. B. 1113*



**Report Title:**

Geographic Limitations on Time Share Units

**Description:**

Repeals the authority to have time share units in an existing hotel in a county with a population in excess of 500,000 if the property has at least 60 units and at least 40% of the units are made available for sale as residential apartments or rented as residential apartments.



# GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:  
GARY M. SLOVIN  
CHRISTOPHER G. PABLO  
ANNE T. HORIUCHI  
MIHOKO E. ITO

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET  
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196  
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
info@goodsill.com • www.goodsill.com

INTERNET:  
gslovin@goodsill.com  
cpablo@goodsill.com  
ahoriuchi@goodsill.com  
meito@goodsill.com

## MEMORANDUM

**TO:** Senator Rosalyn H. Baker  
Chair, Committee on Commerce and Consumer Protection

**FROM:** Gary Slovin

**DATE:** February 25, 2009

**RE:** **S.B. No. 1113 – Relating to Geographic Limitations on Time Shares  
Hearing on Thursday, February 26, 2009 at 8:30 a.m. in Room 229**

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Dear Chair Baker and Members of the Committee:

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 resort at Waikiki Beach Walk.

We are testifying in support of S.B. 1113, which proposes to amend Hawaii Revised Statutes § 514E-5(2)(C). Under the existing law, time share units are allowed in a county with a population in excess of 500,000, in an existing hotel which is a valid nonconforming use under county ordinance *if* the property has at least sixty units and if at least forty percent of the units are made available for sale as residential apartments or rented as residential apartments.

Under the current law, in practice, the time share developer who has taken over the hotel has to assure that the property complies with the 40% residential requirement, even in a case where the time share developer does not own all of the units. Thus, this requirement exists even though the time share developer may not have the ability to directly control or enforce it. If the residential units are owned independently of the time share developer, the developer has no authority over these owners. Consequently, the present law requires the time share developer to do something it has no legal authority to carry out.

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We have informed the Timeshare Administrator of this proposed legislation, and have been working cooperatively with her in connection with this proposed measure.

In our original proposed draft of this measure we inadvertently deleted the first clause in (C) as follows:

~~[(C) In a county with a population in excess of five hundred thousand, in an existing hotel which is a valid nonconforming use under county ordinance; provided that the property shall have at least sixty units and at least forty per cent of the units, upon completion of sales of the time share intervals in the project, shall be made available for sale as residential apartments or rented as residential apartments.]~~

However, this first sentence should remain in the statute and only the “provided that. . .” language should be deleted, as noted below:

(C) In a county with a population in excess of five hundred thousand, in an existing hotel which is a valid nonconforming use under county ordinance. ~~[provided that the property shall have at least sixty units and at least forty per cent of the units, upon completion of sales of the time share intervals in the project, shall be made available for sale as residential apartments or rented as residential apartments.]~~

We believe that lifting this restriction will help to foster the renovation of older hotel properties and act as a stimulus to the local economy. We urge your support of this bill, and look forward to the opportunity for continued discussion on the measure. Thank you very much for the opportunity to submit testimony.



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

February 26, 2009

**TO:** Senate Commerce and Consumer Protection Committee  
Sen. Rosalyn H. Baker, Chair  
Sen. David Y. Ige, Vice-Chair

**FROM:** Ed Thompson  
ARDA-Hawaii

**DATE:** Thursday, February 26, 2009  
Conference Room 229  
8:30 a.m.

**RE:** **SB 1113, Relating to Geographic Limitations on Time Shares**

Chair Baker and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units and more planned in the future.

ARDA-Hawaii supports SB 1113 which would amend HRS 514E-5 to repeal the authority to have time share units in an existing nonconforming use hotel, in a county with a population in excess of 500,000, if the property has at least 60 units and at least 40% of the units are made available for sale or rented as residential apartments.

We believe by amending the law to repeal this restriction it will help to support renovations of older hotels, which in turn may help to stimulate our struggling economy.

Thank you very much for the opportunity to offer testimony in support of this measure.