
A BILL FOR AN ACT

RELATING TO TIME SHARE.

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

1 SECTION 1. The legislature finds that under chapter 514E,
2 Hawaii Revised Statutes, prospective purchasers of time share
3 interests must be provided a copy of a disclosure statement.
4 When this chapter was originally adopted, receipt of paper
5 documents was common practice. However, recent years have
6 witnessed the rise of electronic commerce and the widespread
7 distribution of information through electronic means. Many
8 consumers and purchasers now prefer an option of receiving
9 important documents electronically.

10 The legislature further finds that time share registrations
11 are required to be renewed every other year. Developers are
12 currently required to disclose the number of time share units
13 and the number of time share interests in each unit during the
14 renewal process. However, although some time share plans
15 continue to divide time share units into time share interests,
16 the modern trend is for time share plans to use a points system.

17 The legislature additionally finds that developers of time
18 shares are also required to provide title reports in connection



1 with renewal registrations. Some non-deeded time share plans
2 may include property in dozens of or more than one hundred
3 locations, and furnishing title reports on each unit in a time
4 share plan is burdensome and expensive. Furthermore, there are
5 already existing lien protections for non-deeded time share
6 plans; these are designed so that the encumbrances recorded
7 after the blanket lien protections are established will not
8 impair the rights of time share purchasers.

9 The legislature also finds that developers are required to
10 file a financial statement in connection with renewal
11 registration. Many developers are subsidiaries of publicly
12 traded companies, and preparation of financial statements for
13 the subsidiaries has proven burdensome for developers while
14 providing little to no perceived benefit to consumers.

15 The purpose of this Act is to:

- 16 (1) Permit prospective purchasers of time share interests
17 to receive printed or electronic copies of the
18 disclosure statement on the time share plan; and
19 (2) Amend the renewal process for time share registrations
20 by:



- 1 (A) Permitting the developer to disclose either the
- 2 total number of time share interests or the total
- 3 number of points in a time share plan;
- 4 (B) Eliminating the requirement that developers
- 5 provide title insurance and reports; and
- 6 (C) Eliminating the requirement that developers file
- 7 a financial statement.

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

11 **"§514E- Disclosure statement; prospective purchasers.**

12 The purchaser of a time share interest shall be provided a copy
13 of the disclosure statement filed with and accepted by the
14 director concurrently with the execution of a sales contract.

15 The disclosure statement shall be provided in printed form
16 unless the purchaser indicates in a separate writing the
17 purchaser's election to receive the disclosure statement through
18 means of a computer disc, electronic mail, download from an
19 internet site, thumb drive, any other media that may require the
20 use of a device or a machine to be viewed or heard, or by any
21 other means contemplated by chapter 489E. The separate writing
22 shall include, above the signature line in bold type and capital



1 letters, the following statement: "ANY PURCHASER HAS UNDER THE
2 LAW A SEVEN-DAY RIGHT OF RESCISSION OF ANY TIME SHARING SALES
3 CONTRACT. PURCHASERS SHOULD READ THE DISCLOSURE STATEMENT
4 BEFORE THE SEVEN-DAY RIGHT OF RESCISSION PERIOD EXPIRES."

5 SECTION 3. Section 514E-10, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§514E-10 Registration required; developer, acquisition**
8 **agent, plan manager, and exchange agent[-]; registration**

9 **renewal.** (a) A developer shall not offer or dispose of a time
10 share unit or a time share interest unless the disclosure
11 statement required by section 514E-9 is filed with the director
12 pursuant to the time specified in this chapter, or the
13 development is exempt from filing, and the time share plan to be
14 offered by the developer is accepted by the director for
15 registration under this chapter. The director shall not accept
16 a developer's time share plan if the developer does not possess
17 a history of honesty, truthfulness, financial integrity, and
18 fair dealing.

19 (b) An acquisition agent (including the developer if it is
20 also the acquisition agent) shall register under this chapter by
21 filing with the director a statement setting forth the time
22 sharing plan for which it is providing prospective purchasers,



1 its address, the telephone number, other information required by
2 the director as provided by rules adopted pursuant to chapter
3 91, and, if the acquisition agent is not a natural person, the
4 name of the responsible managing employee; provided that an
5 acquisition agent licensed under chapter 467 as a real estate
6 broker shall not be required to register under this chapter.
7 All acquisition agents not licensed under chapter 467 shall be
8 approved by the director. The director shall not approve any
9 acquisition agent who is not of good character and who does not
10 possess a reputation for honesty, truthfulness, and fair
11 dealing. The acquisition agent shall furnish evidence that the
12 acquisition agent is bonded as required by rules adopted by the
13 director pursuant to chapter 91 to cover any violation by the
14 acquisition agent of any solicitation ordinance or other
15 regulation governing the use of the premise or premises in which
16 the time share plan is promoted; provided that the acquisition
17 agent shall be separately bonded for each time share plan for
18 which it is providing prospective purchases.

19 (c) A plan manager (including the developer if it is also
20 the plan manager) shall register under this chapter by filing
21 with the director a statement setting forth the time sharing
22 plan that it is managing, its principal office address,



1 telephone number, and responsible managing employee. The plan
2 manager shall furnish evidence that the plan manager is bonded
3 as required by rules adopted by the director pursuant to chapter
4 91 to cover any default of the plan manager and any of its
5 employees of their duties and responsibilities; provided that
6 the plan manager shall be separately bonded for each time share
7 plan under the management of the plan manager.

8 (d) An exchange agent (including the developer if it is
9 also an exchange agent) shall register under this chapter by
10 filing with the director a statement setting forth the time
11 sharing plan for which it is offering exchange services, its
12 principal office address and telephone number, and designate its
13 responsible managing employee.

14 (e) Any plan manager or developer registration required in
15 this section shall be renewed by December 31 of each even-
16 numbered year, and any acquisition agent or exchange agent
17 registration required in this section shall be renewed on
18 December 31 of each odd-numbered year; provided that this
19 subsection shall not relieve the person required to register
20 from the obligation to notify the director promptly of any
21 material change in any information submitted to the director,
22 nor shall it relieve the developer of its obligation to promptly



1 file amendments or supplements to the disclosure statement, and
2 to promptly supply the amendments or supplements to purchasers
3 of time share interests.

4 (f) An application for renewal of a developer registration
5 shall include:

6 (1) An application for renewal of registration on a form
7 prescribed by the director;

8 (2) A current disclosure statement that meets the
9 requirements of section 514E-9 and section 16-106-3,
10 Hawaii Administrative Rules, if not already on file;

11 (3) A statement that is certified by the developer to be
12 true and correct in all respects and that identifies,
13 as appropriate:

14 (A) The time share units in the time share plan
15 registered pursuant to this chapter; the total
16 number of registered time share interests in each
17 unit and the total number of registered points in
18 each property pursuant to this chapter; and the
19 total number of time share interests that have
20 not yet been sold and closed as of the date
21 specified in the developer's certification, which



- 1 date shall not be more than sixty days prior to
2 the date of the developer's certification; or
3 (B) The property in the time share plan registered
4 pursuant to this chapter; the total number of
5 points registered for sale pursuant to this
6 chapter; and the total number of points in the
7 time share plan that have not yet been sold and
8 closed as of the date specified in the
9 developer's certification, which date shall not
10 be more than sixty days prior to the date of the
11 developer's certification;
- 12 (4) If the developer is a corporation, partnership, joint
13 venture, limited liability company, or limited
14 liability partnership, an original certificate of good
15 standing issued by the business registration division
16 of the department of commerce and consumer affairs not
17 more than forty-five days before the date of
18 submission of the renewal application; and
- 19 (5) The biennial renewal fee.
- 20 (g) Developers shall not be required to include the
21 following in an application for renewal of a developer
22 registration of a time share plan:



- 1 (1) A financial statement of the developer; or
- 2 (2) A policy of title insurance, a preliminary title
- 3 report, abstract of title, or certificate of title on
- 4 the units or time share interests in the time share
- 5 plan."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Time Share; Disclosure Statement; Electronic Documents; Renewal Registration; Developers

Description:

Allows prospective time share purchasers to receive printed or electronic copies of the disclosure statement. Amends developer registration renewal requirements by permitting disclosure of either the total number of time share interests or the total number of points in a time share plan and by eliminating requirements to provide title insurance, title reports, and a financial statement. (HB2019 HD1)

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