

JAN 17 2014

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# 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: "PROSPECTIVE PURCHASERS  
2 SHOULD READ THE DISCLOSURE STATEMENT ON THE TIME SHARE PLAN.  
3 ANY PURCHASER HAS, UNDER THE LAW, A SEVEN-DAY RIGHT OF  
4 RESCISSION OF ANY TIME SHARING SALES CONTRACT."."

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 time share interests registered for  
17 sale pursuant to this chapter; and the total  
18 number of time share interests that have not yet  
19 been sold and closed as of the date specified in  
20 the developer's certification, which date shall  
21 not be more than sixty days prior to the date of  
22 the developer's certification; or



1           (B) The property in the time share plan registered  
2           pursuant to this chapter; the total number of  
3           points registered for sale pursuant to this  
4           chapter; and the total number of points in the  
5           time share plan that have not yet been sold and  
6           closed as of the date specified in the  
7           developer's certification, which date shall not  
8           be more than sixty days prior to the date of the  
9           developer's certification;

10          (4) If the developer is a corporation, partnership, joint  
11          venture, limited liability company, or limited  
12          liability partnership, an original certificate of good  
13          standing issued by the business registration division  
14          of the department of commerce and consumer affairs not  
15          more than forty-five days before the date of  
16          submission of the renewal application; and

17          (5) The biennial renewal fee.

18          (g) Developers shall not be required to include the  
19          following in an application for renewal of a developer  
20          registration of a time share plan:

21          (1) A financial statement of the developer; or





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

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 Statutory material to be repealed is bracketed  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

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

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# S.B. NO. 2480

**Report Title:**

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

**Description:**

Allows prospective purchasers of time share interests to receive printed or electronic copies of the disclosure statement on the time share plan. Amends the renewal process for time share registrations by: permitting the developer to disclose either the total number of time share interests or the total number of points in a time share plan; eliminating the requirement that developers provide title insurance and title reports; and eliminating the requirement that developers file a financial statement.

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