

JAN 17 2014

A BILL FOR AN ACT

RELATING TO TIME SHARES.

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

1 SECTION 1. The legislature finds that time share
2 developers frequently develop projects in more than one state or
3 country. Hawaii law requires that a developer register a
4 foreign time share plan prior to offering and selling time share
5 interests in Hawaii, which is appropriate because the offer and
6 sale of the time share interests in a foreign time share plan
7 take place in Hawaii. However, managers of foreign time share
8 plans do not conduct business in Hawaii. Requiring these
9 managers to register in Hawaii may raise difficult questions,
10 including whether these managers should acquire a Hawaii real
11 estate license, even though they have no presence and conduct no
12 business in the State. Amendments to address managers of
13 foreign time share plans are therefore necessary.

14 The legislature finds that chapter 514E, Hawaii Revised
15 Statutes, was amended in 1982 to establish a comprehensive
16 scheme to protect the rights of time share purchasers from
17 blanket liens that might deprive the purchasers of the right to
18 use the property of a time share plan. These amendments



1 required that an association of time share owners be established
2 as a nonprofit corporation, whether in Hawaii or elsewhere.
3 However, since that time new kinds of business organizations
4 have been created. Amendments to modernize chapter 514E, Hawaii
5 Revised Statutes, are therefore necessary.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Eliminate the requirement that a manager of a foreign
8 time share plan register in Hawaii as a time share
9 plan manager;
- 10 (2) Require the disclosure statement for an offering of a
11 time share plan to disclose that the manager of a
12 foreign time share plan is not registered in Hawaii;
- 13 (3) Recognize that an association of time share owners may
14 be any kind of nonprofit or not-for-profit entity; and
- 15 (4) Make housekeeping amendments.

16 SECTION 2. Section 514E-9, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§514E-9 Disclosure statement.** (a) Any offering of a
19 time sharing plan to the public shall disclose:

- 20 (1) The name and address of the developer and of the time
21 share units;



- 1 (2) The name and address of the plan manager, if any, and
2 a description of the plan manager's responsibilities
3 and authority;
- 4 (3) A description of the time share units, including the
5 developer's schedule for completion of all buildings,
6 units, and amenities and dates of availability;
- 7 (4) If the time share plan is located in a condominium
8 property regime, a description of the project and any
9 pertinent provisions of the project instruments;
- 10 (5) Any restraints on the transfer of the buyer's time
11 share interest in the time share units or plan;
- 12 (6) Whether the time share plan is a time share ownership
13 plan or a time share use plan, along with a
14 description of the rights and responsibilities under
15 said plan;
- 16 (7) A statement that there is a seven-calendar-day period
17 of mutual rescission;
- 18 (8) A statement that pursuant to section 514E-11.3, every
19 sale or transfer, made in violation of this chapter is
20 voidable at the election of the purchaser;
- 21 (9) Notice of any liens, title defects or encumbrances on
22 or affecting the title to the units or plan;



1 (10) Notice of any pending or anticipated suits that are
2 material to the time share units or plan, of which the
3 developer has, or should have, knowledge;

4 (11) The total financial obligation of the purchaser, which
5 shall consist of:

6 (A) A statement that the purchaser is obligated to
7 pay the initial price stated in the purchaser's
8 purchase agreement; and

9 (B) A list or description of any additional charges
10 to which the purchaser may be subject;

11 (12) An estimate of the dues, maintenance fees, real
12 property taxes, and similar periodic expenses, and the
13 method or formula by which they are derived and
14 apportioned; ~~and~~

15 (13) The disclosure statement under subsection (d), if
16 applicable; and

17 ~~[(13)]~~ (14) Other disclosures required by the director, as
18 provided by rules adopted pursuant to chapter 91.

19 (b) The requirements of this section shall not apply to
20 the following transactions:

21 (1) Any transaction pursuant to order of any court;



1 (2) Any disposition by a government or governmental
2 agency;

3 (3) Normal hotel operations; or

4 (4) Any gratuitous transfer.

5 (c) A developer or sales agent shall promptly amend or
6 supplement the disclosure statement to report any material
7 change in the information required by this section.

8 (d) If all the time share units are located outside the
9 State, the disclosure statement shall contain the following
10 statement:

11 "BECAUSE THE TIME SHARE UNITS OF THIS TIME SHARE PLAN ARE
12 LOCATED OUTSIDE OF THE STATE OF HAWAII, THE PLAN MANAGER IS
13 EXEMPT FROM REGULATION UNDER HAWAII LAW AND HAWAII LAW
14 PROVIDES NO PROTECTIONS TO PURCHASERS WITH RESPECT TO THE
15 PLAN MANAGER."."

16 SECTION 3. Section 514E-29, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) All time share plans shall have an association which
19 shall be a nonprofit or not-for-profit corporation[+], a
20 nonprofit or not-for-profit limited liability company, or any
21 other entity organized on a nonprofit or non-for-profit basis,
22 or that qualifies as a homeowners association under title 26



1 United States Code section 528. Each owner shall be a member of
2 the association."

3 SECTION 4. Section 514E-30, Hawaii Revised Statutes, is
4 amended to read as follows:

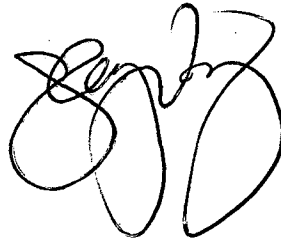
5 "**§514E-30 Scope of chapter.** This chapter applies to the
6 offer and sale in Hawaii of time share interests in time share
7 units located in Hawaii. If time share units are located
8 outside of Hawaii, but any offer or sale is made within the
9 State, this chapter, except for sections 514E-3, 514E-4, 514E-5,
10 514E-6, 514E-7, 514E-10(c), and 514E-14, shall apply. As to the
11 offer and sale outside of Hawaii of time share interest in a
12 time share plan which includes time share units located in
13 Hawaii, this chapter, except for sections 514E-2.5, 514E-8,
14 514E-9, 514E-10(b) [~~and (c)~~], 514E-11, and 514E-11.1 shall
15 apply."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Donna H. Park*
Spencer Jr *Will Eyo*

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S.B. NO. 2481

Report Title:

Time Shares; Disclosure Statement; Nonprofit Entities; Not-for-profit Entities; Foreign Time Share Plans

Description:

Eliminates requirement that a manager of a foreign time share plan register in Hawaii as a time share plan manager. Requires disclosure statement for an offering of a time share plan to disclose that the manager of a foreign time share plan is not registered in Hawaii. Recognizes that an association of time share owners may be any kind of nonprofit or not-for-profit entity. Makes housekeeping amendments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

