

**Comments of  
Gary M. Slovin / Mihoko E. Ito  
on behalf of  
Wyndham Vacation Ownership**

DATE: February 24, 2014

TO: Representative Sylvia Luke  
Chair, Committee on Finance  
*Submitted Via [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)*

RE: **H.B. 2019, H.D.1 - Relating to Time Share**  
**Hearing Date: Tuesday, February 25, 2014 at 1:00 p.m.**  
**Conference Room: 308**

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Dear Chair Luke and Members of the Committee on Finance,

We submit these comments on behalf of Wyndham Vacation Ownership. Wyndham offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **strongly supports** H.B. 2019, H.D.1, which permits prospective purchasers of time share interests to receive printed or electronic copies of the disclosure statement on the time share plan, and amends the renewal process for time share registrations.

Wyndham supports this measure because it provides a means to streamline industry practices given the advances in technology that are now available. A growing number of consumers now prefer receiving documents electronically. Providing prospective time share purchasers with the option of receiving paper or electronic copies of the disclosure statement allows Wyndham to keep up with consumers' expectations.

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In addition, amending the renewal requirements for time share registrations by 1) permitting the developer to disclose the total number of registered time share interests in each unit and the total number of registered points in a time share plan; 2) eliminating the requirement to furnish title reports on each unit in a time share plan; and 3) eliminating the requirement that developers file a financial statement, streamlines the renewal process.

Many time share plans are moving towards the use of a modern point system while others maintain a more traditional time share interest plan. With either system, these plans can include property in many jurisdictions, and furnishing title reports on each unit in a plan can be time consuming and burdensome when there are already lien protection mechanisms in place for consumers. Furthermore, filing a financial statement for renewal registration provides little to no value to potential purchasers since many developers like Wyndham are subsidiaries of publicly traded companies.

Wyndham notes that the House Committee on Consumer Protection and Commerce amended the measure to more clearly alert purchasers to read the disclosure statement prior to the expiration of the seven-day renewal period, and to require that developers include in their registration renewal applications the total number of registered time share interests in each unit and the total number of registered points in each property. Wyndham supports H.B. 2019, H.D.1 as amended, and respectfully requests that this Committee pass it for further consideration.

Thank you for the opportunity to submit comments on this measure.

CHARLES E. PEAR, JR.

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February 24, 2014

Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
Rep. Aaron Ling Johanson, Vice Chair  
Members of the Committee on Finance  
Twenty-Seventh Legislature  
Regular Session, 2014

Re: H.B. 2019, H.D. 1  
Hearing on February 25, 2014, 1:00 p.m.  
Conference Room 308

Dear Chair, Vice-Chair and Members of the Committee:

My name is Charles Pear. I am appearing on behalf of ARDA Hawaii at its legislative counsel.

ARDA Hawaii supports the bill with the revisions proposed by the Department of Commerce and Consumer Affairs. There are some technical changes to the bill shown in the attached exhibit.

1. Digital Disclosures.

This bill is intended to modernize the Hawaii Time Share Act by allowing buyers to choose whether to receive the disclosure statement on paper or in digital form. This would allow buyers to receive the disclosure statement on a CD, by email, by downloading it from a website, or in other digital formats.

With the rise of electronic commerce and social media, many buyers may prefer electronic media to print versions of the same documents. In addition, many if not most time share buyers in Hawaii are visitors from the mainland. Providing the disclosure statement and other key documents in a digital format provides a convenient way for buyers to take their documents home with them when they leave Hawaii. It has the added benefit of allowing buyers to keep copies on their computers or in cloud storage for future reference.

It also provides developers a more convenient means of making comprehensive disclosures to buyers. For example a CD might contain not just the disclosure statement but also the time share declaration and bylaws, the articles of incorporation and rules of the time share owners association, the condominium declaration and bylaws, the condominium map, and other documents that may be of interest to the time share buyers.

This bill is patterned after provisions of the Hawaii condominium act allowing the condominium documents to be provided to buyers in a digital format. As with the condominium act, buyers can choose whether to receive the documents on paper or in a digital format. That election must be evidenced by a separate document which must also inform the buyers that they have a 7-day right of cancellation, and that they should read the disclosure statement before the cancellation right ends.

2. Renewal Streamlining.

This bill is designed to update and streamline biennial renewals of the developer registrations by (1) allowing developers to describe the sold and unsold inventory in terms of points rather than weeks, (2) eliminating the requirement that developers provide title reports on all unsold inventory, and (3) eliminating the need to file an updated financial statement on the developer.

The current law fails to recognize that many developers now sell points, rather than weeks, and that the developer's unsold inventory should likewise be described in terms of the number of unsold points, not weeks. In addition, where a time share plan uses a points-based system, it may not be possible or helpful to identify the number of weeks remaining for sale. Instead, it is more accurate to describe the unsold inventory in terms of points remaining for sale. H.B. 2018 updates the law to recognize these developments.

This bill also eliminates the current requirement that the developer file title reports on unsold inventory. This has proven to be very costly and time-consuming for developers and their title companies, and has little or no benefit to the consumers since the developer has a continuing obligation to disclose all material encumbrances on title in the disclosure statement.

When property is registered in a time share plan, title reports are filed with the Department. At that time, the method of protecting purchasers from blanket mortgages and other blanket liens is established. For example, in some time share plans, title is conveyed to a trustee with instructions that the trustee cannot convey or mortgage the units. After the trust is established and title is conveyed to the trustee, there is no point in revisiting the state of title. For deeded time share plans, the escrow agreement typically prohibits escrow from closing the sale of a time share interest unless it is free of any blanket mortgages or other blanket liens. After this mechanism is established, there is no need to revisit title.

However, many time share plans include hundreds of units. Obtaining title reports on each unit containing unsold timeshare interests can be very costly. In addition, points are

fungible in some points-based systems, with the result that there is no way of identifying which points relate to which units. As a result, the developer may have to file title reports on dozens or hundreds of units in a single site, and maybe thousands of units spanning multiple sites. This bill would eliminate this burden and expense.

Finally, the bill would eliminate the requirement that the developer file a financial statement. Most time share developers are now subsidiaries of publicly traded companies. While the parent company has annual financial statements prepared, individual subsidiary companies apparently do not. As a result, it has been difficult to obtain a financial statement on a time share developer that is a subsidiary of a publicly traded company.

Thank you for your kind consideration of this legislation. I would be happy to answer any questions.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP

A handwritten signature in black ink, appearing to read 'Charles E. Pear, Jr.', written in a cursive style.

Charles E. Pear, Jr.

Attachment

## HB 2019, HD 1 Relating to Time Share

Pages 7, lines 14 – 21:

- (A) The time share units in the time share plan registered pursuant to this chapter; the total number of ~~registered~~ time share interests **registered for sale** in each unit ~~and the total number of registered points in each property~~ pursuant to this chapter; and the total number of time share interests that have not yet been sold ~~and closed~~ as of the date specified in the developer's certification, which

Page 8, lines 3 – 11:

- (B) The property in the time share plan registered pursuant to this chapter; the total number of points registered for sale **in each property** pursuant to this chapter; and the total number of points in the time share plan that have not yet been sold ~~and closed~~ as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification;





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Orlando, Florida 32819  
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February 25, 2014

To: Honorable Sylvia Luke, Chair  
Honorable Scott Nishimoto, Vice Chair  
Honorable Aaron Johanson, Vice Chair  
House Committee on Finance

RE: **HB 2019 HD1 - Relating to Time Share – In Support**  
Conference Room 308; Agenda #3; 1:00 p.m.

Chair Luke, Vice Chairs Nishimoto and Johanson and members of the committee:

Starwood Vacation Ownership (“Starwood”) appreciates the opportunity to offer testimony in support of HB 2019 HD1, which allows prospective purchasers of time share interests to receive printed or electronic copies of the disclosure statement on the time share plan, and amends the renewal process for time share registrations.

Many consumers now prefer an option of receiving important documents electronically. This bill modernizes the Hawaii timeshare law by permitting developers to give consumers the option of receiving disclosure documents in electronic or hard copy format. This option is permitted in other states with strict timeshare regulation, such as Florida, California and New York.

In addition, the bill updates and streamlines renewal registration requirements. This change will reduce costs and burdens for both the industry and the Department of Commerce and Consumer Affairs (DCCA) while enhancing consumer protection. We respectfully request that you pass HB 2019 HD1.

Thank you.

Robin Suarez  
Vice President/Associate General Counsel  
Starwood Vacation Ownership



# LATE TESTIMONY

NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

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KEAU'I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIOA TAKEUCHI  
DEPUTY DIRECTOR

## PRESENTATION OF THE PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Tuesday, February 25, 2014  
1:00 p.m.

### TESTIMONY ON HOUSE BILL NO. 2019, H.D.1, RELATING TO TIME SHARE.

TO THE HONORABLE SYLVIA LUKE, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Lori Beth Van Cantfort, Time Share Administrator of the Professional and Vocational Licensing Division, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department").

H.B. No. 2019, H.D.1 seeks to amend Hawaii Revised Statutes Chapter 514E to (1) add a new section providing time share purchasers the option to receive the time share disclosure statement in electronic form, and (2) amend section 514E-10 to simplify the renewal requirements for developers to no longer require a title report and financial statement. The Department supports H.B. 2019, H.D.1, with amendments to Section 3 of the bill in the form attached.



Testimony on House Bill No. 2019, H.D.1  
Tuesday, February 25, 2014  
Page 3

The proponent of the bill and the Department have agreed to the attached amendments to Section 3 of the bill which requires Developers to identify the total number of registered time share interests in each unit and the total number of registered points in each property, and deletes the requirement to identify the time share interests or points that have not yet closed.

Section 3 also removes the requirement that a financial statement be submitted with the renewal application. This would be consistent with PVL's other licensing areas.

Thank you for this opportunity to provide testimony supporting H.B. No. 2019, H.D.1, with amendments.

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 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 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



in each property

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:



**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)

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

