

# HB 2019 HD2

Measure Title: RELATING TO TIME SHARE.

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. Effective July 1, 2030. (HB2019 HD2)

Companion: SB2480

Package: None

Current Referral: CPN

Introducer(s): MCKELVEY



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GOVERNOR

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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Friday, March 14, 2014  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2019, H.D. 2, RELATING TO TIME SHARE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

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

H.B. No. 2019, H.D. 2, 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. 2, with amendments to Section 3 of the bill in the form attached.

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For the Committee's information, H.B. 2019 is the companion bill to S.B. 2480, which the Committee passed with an S.D. 1 on February 19, 2014. The requested amendment to Section 3 of the bill provides similar language found in S.B. 2480, S.D. 1, which requires Developers to identify 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. The parties have agreed to these amendments.

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

Thank you for this opportunity to provide testimony supporting H.B. No. 2019, H.D. 2, with amendments.

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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 enacted, 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 or more locations, and furnishing  
3 title reports on each unit in a time share plan is burdensome  
4 and expensive. Furthermore, there are already existing lien  
5 protections for non-deeded time share plans; these are designed  
6 so that the encumbrances recorded after the blanket lien  
7 protections are established will not impair the rights of time  
8 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 be on a form prescribed by the director and shall include:

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

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

registered for sale

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

in each property

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          (3) 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          (4) 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 on July 1, 2030.



**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. Effective July 1, 2030. (HB2019 HD2)

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



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

DATE: March 13, 2014

TO: Senator Roz Baker  
Chair, Committee on Commerce and Consumer Protection  
*Submitted Via [CPNtestimony@capitol.hawaii.gov](mailto:CPNtestimony@capitol.hawaii.gov)*

RE: **H.B. 2019, H.D. 2 – Relating to Time Shares**  
**Hearing Date: Friday, March 14, 2014 at 9:00 a.m.**  
**Conference Room 229**

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Dear Chair Baker and members of the Committee on Commerce and Consumer Protection,

We submit this testimony 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.2, 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.

In addition, the bill streamlines the renewal process for time share registrations by:

- 1) permitting the developer to disclose the total number of registered time share interests

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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.

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 further supports the amendments made to the bill by previous committees and notes that these amendments were made in collaboration with the stakeholders. At this time, Wyndham prefers the Senate version of the bill, S.B. 2480 S.D.1, which incorporates all of the amendments discussed by the stakeholders.

Thank you for the opportunity to submit testimony in support of this measure.



March 14, 2014

TO: SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

FROM: Henry Perez, Chair  
ARDA-Hawaii

RE: HB 2019 HD2, Relating to Time Shares  
Position: Support with amendments

Dear Chair Baker, Vice Chair Taniguchi and members of the Committee:

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, supports HB 2019 HD2, to update the Hawaii timeshare law in conformance with modern customer preference and business practices.

Under current law, prospective purchasers of timeshare interests must be provided a hard copy of a disclosure statement. However, the increase in the use of computers and electronic document transmission has resulted in a consumer preference to have the option of receiving the disclosure documents electronically. In response to this changing marketplace, we would like to be able to permit prospective purchasers of timeshare interests to receive either printed or electronic copies of the disclosure statement on the time share plan.

In addition to updating the law with respect to providing information to our prospective buyers, ARDA Hawaii also supports clarification of our reporting requirements to the State. This bill also contains several important changes to simplify the renewal process by clarifying the information required to be submitted and deleting documents currently being provided. Such documents include financial statements of the developer and title reports which can be burdensome and expensive.

Finally, with the agreement of DCCA, ARDA Hawaii would like to request that pages 7 and 8 of the bill be amended to mirror the language in the Senate version, SB 2480 SD1.

Thank you for the opportunity to testify.



**STARWOOD**  
VACATION OWNERSHIP

9002 San Marco Court  
Orlando, Florida 32819  
(407) 418-7271

March 14, 2014

To: Honorable Rosalyn Baker, Chair  
Honorible Brian Taniguchi, Vice Chair  
Senate Committee on Commerce and Consumer Protection

RE: **HB 2019 HD2 - Relating to Time Share – In Support**  
Conference Room 229; 9:00 AM

Chair Baker, Vice Chair Taniguchi and members of the committee:

Starwood Vacation Ownership (“Starwood”) appreciates the opportunity to offer testimony in support of HB 2019 HD2, 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 HD2.

Thank you.

Robin Suarez  
Vice President/Associate General Counsel  
Starwood Vacation Ownership