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

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Monday, April 6, 2015
2:30 p.m.

**TESTIMONY ON SENATE BILL NO. 754, S.D. 2, H.D. 1, RELATING TO TIME
SHARING.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, 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"). For the reasons set forth below, the Department has strong concerns with aspects of this bill.

Senate Bill No. 754, S.D. 2, H.D. 1, seeks to (1) provide purchasers with a 7-day rescission right when purchasing "short-term products", and (2) allow time share

developers to take purchasers' funds out of escrow prior to closing and prior to completion of the time share project, as long as the developer posts a surety bond.

In practice, short-term products are sold to consumers who decide not to purchase a time share interest. These consumers are then offered to purchase a short stay at a time share property to be used sometime in the future. When they return to vacation at the property, they are solicited to purchase a time share interest again. If they decide to purchase a time share interest at that time, the price they paid for the short-term product is applied towards their time share purchase. Currently, Chapter 514E, Hawaii Revised Statutes ("HRS"), only provides a 7-day rescission right for the sale of a time share interest. The rescission right does not apply to sales of short-term products. However, many consumers assume the 7-day rescission right applies to their purchase of a short-term product because the short-term product is being sold to them to solicit a time share sale. Some developers already offer a rescission right for short-term products which further confuses consumers because they believe all developers offer a rescission right. Providing a statutory 7-day rescission right for short-term products will eliminate any confusion and provide better consumer protection.

Although the Department supports providing a 7-day rescission right for short-term products, it has concerns whether the consumer protection provisions provided under Chapter 514E, HRS, would be available to our enforcement agency, the Regulated Industries Complaints Office ("RICO"), because under the language of this bill, a short-term product would not be considered a time share interest, and the bill does

not require short-term sellers to be licensees. As such, it is unclear whether the Real Estate Commission, or RICO, would have oversight or enforcement authority over the proposed short-term sale provisions.

The Department also has concerns with the definition of "short-term product". The definition is so specific that developers could easily modify what they are selling so that the product no longer falls within the strict definition of "short-term product", and, therefore, could easily avoid having to comply with the law.

Another serious concern the Department has is allowing developers to post a surety bond instead of requiring purchasers funds remain in escrow prior to closing. The Department questions the level of consumer protection provided by a surety bond and how difficult it will be for consumers to collect on a surety bond when they are entitled to a refund. Developers will be able to take consumers' funds without providing the Department with any proof that the project will be built (e.g., construction contract, performance/completion bond, proof of sufficient funds to complete the project). The Department is concerned that this provision would seriously disadvantage consumers by decreasing the availability/collectability of funds that would otherwise be held in escrow, now leaving consumers to try to recover from surety companies.

The Department has had ongoing discussions with the proponent of the bill. However, the Department believes there are a number of issues related to this measure that could use further consideration by the Committee, including the following: (1) a proposal that short-term product buyers should have a shorter statute of limitations to file

complaints; (2) whether developers should use a surety bond form prescribed by the Director, or, if a different form is used, what sort of discretion to review the bond form should the Director be allowed; (3) whether short-term product sellers should fall under the Travel Agency Law or Real Estate Law, including applicable licensing requirements; (4) whether funds released from escrow should be limited for use in Hawaii-based development; and (5) whether the sale of the time share interest must close within 2 years, or whether some other timeline for the closing of sales is more appropriate. The Department would appreciate the opportunity to work with the Committee in developing language that could effectively address the issues noted above.

With respect to current version of this measure, the Department notes that this Committee heard the House companion measure, House Bill No. 271, on February 23, 2015, and passed it out of Committee as House Bill No. 271, H.D. 2. The House Committee on Economic Development & Business, which heard Senate Bill No. 754, S.D. 2 on March 24, 2015, amended the bill by deleting its contents and replacing it with the contents of House Bill No. 271, H.D. 2. The Department prefers the language found in Senate Bill No. 754, S.D. 2, H.D. 1, over the original Senate language.

Thank you for this opportunity to provide testimony on Senate Bill No. 754, S.D. 2, H.D. 1.



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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015

MONDAY, APRIL 6, 2015
2:30 P.M.

TESTIMONY ON
SENATE BILL NO.754 S.D.2 H.D.1
RELATING TO TIME SHARING

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE JUSTIN H. WOODSON, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 754 S.D.2 H.D.1, Relating to Time Sharing. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

Senate Bill No. 754 S.D.2 H.D.1 grants cancellation rights to persons who contract to purchase short-term products in Hawaii. The bill also allows

disbursement of purchasers' funds to a developer under certain conditions and has a defective effective date.

RICO notes that this Committee passed this measure's House companion, House Bill No. 271 H.D.2, the substance of which is identical to this bill's current draft. Although House Bill No. 271 was recently passed by the Senate Committee on Commerce and Consumer Protection with yet-to-be-filed amendments, RICO prefers the language found in this bill and House Bill No. 271 H.D.2 as it allows a developer to use disbursements for costs associated with time share development in Hawaii and requires a developer to deposit either a surety bond or a letter of credit with the Director and escrow agent.

RICO defers to the Department's Time Share Program on the issues of cancellation rights and disbursement of funds, but has concerns on enforcement of the new section that gives cancellation rights to purchasers of short-term products in Hawaii.

RICO's role in enforcing the new section relating to the sale of short-term products is unclear. Senate Bill No. 754 S.D.2 H.D.1 specifies that a short-term product shall not constitute a time share interest, and does not require short-term sellers to be licensees. As such, none of the consumer protection provisions currently available in Chapter 514E, Hawaii Revised Statutes ("HRS"), would apply or be available to RICO as the enforcing agency, and it is unclear whether the Real Estate Commission or RICO would have oversight or enforcement authority over the proposed short-term sale provisions.

Senate Bill No. 754 S.D.2 H.D.1 also exempts the offer or sale of short-term products by a developer or affiliate of the developer from the provisions of the travel agency law, Chapter 468L, HRS. RICO believes "affiliate" could encompass an independent third party contracting with the developer, and as such, would be functioning as an intermediary subject to Chapter 468L, HRS. Also, as noted above, RICO questions whether the offer or sale of a short-term product would constitute activity for which a real estate license is required under Chapter 467, HRS.

From an enforcement perspective, the definition of "short-term product" on page 14, lines 3-12 is also problematic. The definition as currently drafted contains specific requirements relating to the sale of a short-term product that, if not met, could be used to evade compliance with the short-term product provisions in the bill.

The Department continues to work with the proponent of the bill on amendments, but notes many issues remain unresolved, including: 1) the use of disbursed funds for costs associated with time share development in Hawaii; 2) statute of limitations for actions brought by short-term product purchasers; and 3) the timeframe within which a time share sale must close.

Thank you for the opportunity to testify on Senate Bill No. 754 S.D.2 H.D.1. I will be happy to answer any questions the members of the Committee may have.



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April 3, 2015

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Representative Angus L. K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members of the House Committee on Consumer
Protection and Commerce
Twenty-Eighth Legislature
Regular Session of 2015

RE: SB 754, SD2, HD1 Relating to Time Sharing
Hearing date: Monday, April 6, 2015
2:30 pm, Conference Room 325

Aloha Chair, Vice-Chair and Members of the Committee,

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation ("MVWC") in **SUPPORT OF SENATE BILL 754, SD2, HD 1 RELATING TO TIME SHARING**. MVWC is a global leader in the timeshare industry, with five resort properties in Hawaii. Timeshare units are a significant and stabilizing part of the tourism industry, and resort development provides thousands of construction jobs in the islands year after year.

This bill addresses an important concern in resort development. Under current Hawaii law, after a new timeshare unit is sold, the purchasers' funds are placed in escrow and disbursed to developers to help pay for the costs of construction and development. Allowing funds to be disbursed to developers is essential to the development as the funds provide the cash flow needed for timely completion of the project. However, disbursement often occurs prior to the closing and deeding of the property. Thus, if the developer defaults and the purchaser's lien is subordinate to the construction lender's rights, the purchaser may be in jeopardy of losing both his/her property and deposit.

SB 754, SD2, HD 1 provides a remedy to this concern by requiring the developer to first post a surety bond issued by a bonding company authorized to do business in Hawaii, or irrevocable letter of credit, before the purchasers' funds are released. Additionally, the developer would be required to show that the aggregate sum of the bond, or letter of credit, and the purchaser's funds remaining in escrow is at least equal to the amount of funds that would have remained in escrow without the bond and that there is no lien payment trust or similar device employed by the developer.



IMANAKA ASATO

A LIMITED LIABILITY LAW COMPANY

Representative Angus L. K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members of the House Committee on Consumer
Protection and Commerce
April 3, 2015
Page Two

Other jurisdictions have adopted rules similar to those proposed in SB 754, SD2, HD 1 and found them to provide adequate protection for consumers. For these reasons, MVWC **strongly supports** Senate Bill 754, SD2, HD1. Mahalo for your consideration.

Sincerely,

IMANAKA ASATO L.L.C.

Michael L. Iosua

MLI:tmoh



April 6, 2015

TO: COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair

FR: Blake Oshiro, Executive Director, ARDA Hawaii

RE: S.B. 754 SD2, HD1 Relating to Time Sharing.
Position: Support with Proposed Amendments

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, supports SB754 SD2, HD1, with some proposed amendments. Attached, please find a proposed HD2 for your consideration with language that reflects further discussions with the Department of Commerce and Consumer Affairs (DCCA). ARDA-Hawaii defers to its attorney, Charlie Pear, on the particulars of these changes from prior versions of the bill. It is our understanding that DCCA is not in complete agreement with the proposed HD2 that is submitted, however, we would like to respectfully request that the Committee pass this bill so that we can continue our discussion with DCCA.

The first part of the bill establishes cancellation rights for purchasers of short-term timeshare products. In an effort to improve our industry, ARDA agreed to support legislation that regulates the purchase of short-term products and we support this effort to increase consumer confidence.

The remainder of the bill amends current law to allow for the use of escrow bonds. Under current law, when a buyer purchases a timeshare that is in the development stage, the purchase funds may be placed in escrow and disbursed to the developer to cover construction costs. If the developer defaults, because of the use of subordination clauses in the purchase contract, the buyer's rights are subordinated to the rights of the construction lender. The lender may foreclose and acquire title to the project free of any claims of the buyers. This leaves the buyers without recourse to recover their purchase funds.

This law was first enacted in 1985 and since that time, the law has not changed despite changes to the industry, changes to the operations and financing of timeshares, and the fact that several publicly traded hospitality brands that are now associated with timeshares. Thus, ARDA supports amending the law similar to 15 other states' laws that permit a timeshare developer to use buyer's deposits upon posting a bond or other financial assurance. This provides buyers with a remedy in the event a developer fails to complete construction or defaults on the construction loan. We believe similar protections in Hawaii will serve the consumers well.

ARDA is actively engaged in discussions with DCCA and remain hopeful that we will be able to come up with agreeable language very soon. Thank you for the opportunity to submit testimony in support of SB754 SD2, HD1.

c/o Alston Hunt Floyd & Ing * 1001 Bishop Street, 18th Floor * Honolulu, Hawai'i 96813

A BILL FOR AN ACT

RELATING TO TIME SHARING.

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

SECTION 1. The legislature finds that many time share developers offer short-term products that allow prospective time share buyers to explore the time share experience on a trial basis. The legislature finds that some other states have adopted laws providing a seven-day right of cancellation to short-term product buyers.

The legislature further finds that existing time share law requires buyers' funds to be placed in escrow and permits buyers' funds to be disbursed from escrow to help the developer pay the costs of construction and development of time share projects. A buyer's funds may be disbursed for such purposes prior to the closing and deeding of the property to the buyer.

The legislature additionally finds that it is common to include a subordination clause in contracts for the sale of time share interests in a project that has yet to be constructed. In

the subordination clause, the buyers subordinate their rights in the project to the lien of the construction lender. As a result, if the developer defaults under the construction loan, the lender may foreclose and acquire title to the project free of any claims of the buyers. This would be true regardless of whether the buyers' funds were used to pay the costs of construction and development.

The legislature also finds that some other states have adopted laws permitting a timeshare developer to use buyers' deposits upon posting a bond, thus assuring that the buyers' deposits will be refunded if construction of the project is not completed or the buyers otherwise become entitled to a refund. Timeshare developers prefer this approach, and this approach also benefits buyers by providing buyers a remedy in the event that the developer fails to complete construction or defaults under its construction loan.

The purpose of this Act is to:

- (1) Provide cancellation rights to persons who contract to buy a short-term product in Hawaii; and
- (2) Allow disbursement of purchasers' funds to a developer; provided that the developer first posts a surety bond assuring that funds will be deposited into escrow as necessary to make any refunds required by

the Hawaii time share law or by the express terms of the purchaser's sales contract.

SECTION 2. Chapter 514E, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"§514E-A Short-term product; right to cancel. (a) A person who has entered into a contract to purchase a short-term product shall have the right to cancel that contract until the later of: (i) midnight of the seventh calendar day after the date that the short-term product buyer first signs the contract, or (ii) the expiration of any longer cancellation period expressly provided in the contract. A short-term product buyer who exercises the right to cancel under this subsection (a) shall be entitled to a refund of one hundred per cent of the consideration paid under the contract, without deduction. Any provision in the contract that is intended to waive the short-term product buyer's right of cancellation shall be void and unenforceable.

(b) A short-term product seller shall disclose the following in conspicuous type, in the contract or otherwise, to all short-term product buyers:

(1) If the short-term product buyer is required to request a reservation in order to use the accommodations:

- (A) That reservations for accommodations under the contract are subject to availability;
- (B) That there is no guarantee that a short-term product buyer will be able to obtain a reservation for the use of specific accommodations during a specific time period; and
- (C) That the earlier the short-term product buyer requests a reservation, the greater the opportunity to receive a confirmed reservation;
- (2) Specific blackout dates if the short-term product is subject to blackout dates; and
- (3) That the short-term product buyer will be required to pay transient accommodations tax for the occupancy of accommodations in Hawaii. The disclosure in this subparagraph (3) is required only if the short-term product buyer will be required to pay transient accommodations tax in addition to the purchase price of the short-term product.

(c) The contract to purchase a short-term product under this section shall include the date of the contract and contain the following disclosure in conspicuous type on the same page as the short-term product buyer's signature:

"YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE SEVENTH [the short-term product

seller may substitute a greater number of days here]
CALENDAR DAY AFTER THE DATE THAT YOU SIGN THIS CONTRACT.

You may exercise your right to cancel by sending the
seller a written notice that you are cancelling your
contract either by faxing it to [insert facsimile number]
or by depositing it into the United States mail, first-
class postage prepaid, addressed as follows: [insert
specific contact information]. If you properly cancel this
contract, you are entitled to receive a full refund of the
amount paid by you pursuant to this contract.

If you buy a time share interest, you will have any right
to cancel your contract to purchase a time share interest
provided by the law governing the sale of the time share
interest. However, if you cancel your contract to purchase
a time share interest, you will not be entitled to a refund
of any amounts paid by you pursuant to this contract [or
the seller may specify an alternate refund policy under
these circumstances]."

The preceding disclosure is not required to be repeated on any
addendum to the contract.

(d) A short-term product buyer may exercise the right to
cancel by giving written notice to the short-term product seller
in the manner described in subsection (c). A short-term product
seller shall cause any deposit given by a short-term product

buyer who has exercised the right to cancel pursuant to subsection (a) to be mailed or otherwise delivered to the short-term product buyer no later than the last to occur of: (1) fifteen business days following receipt of the short-term product buyer's written notice of cancellation; or (2) fifteen business days following the date upon which any deposit becomes good and immediately available funds.

(e) If a short-term product buyer enters into a contract to purchase a time share interest and all or any portion of the amount paid by the short-term product buyer for a short-term product will be applied to or credited against the price of a time share interest then neither the developer nor any other party, including but not limited to the short-term product seller, shall be required to deposit in an escrow account, pursuant to section 514E-16, any amounts received by the short-term product seller under the contract to purchase the short-term product.

(f) An action for violation of this section shall be brought: no later than four years after the date that the short-term product buyer first signs the contract to purchase a short-term product, or no later than one year after the term of the short-term product ends, whichever is earlier.

(g) Short-term products offered by the developer or an affiliate of the developer of a time share plan registered

pursuant to this chapter shall not constitute travel services for purposes of chapter 468L.

§514E-B Release of purchaser's funds pursuant to bond.

(a) Notwithstanding the requirements of sections 514E-16 and 514E-17 or chapters 514A and 514B, the escrow agent may release up to ninety per cent of a purchaser's deposits to the developer prior to closing if the following conditions have been met:

- (1) The developer has deposited with the director and the escrow agent a surety bond that (i) satisfies the requirements of subsection (b), and (ii) is in a form acceptable to the director as provided in subsection (d);
- (2) The escrow agent has received a copy of the contract executed by the purchaser whose funds are being released;
- (3) At least seven days have passed since the purchaser whose funds are being released executed the contract;
- (4) The escrow agent has received a copy of a receipt for the Hawaii disclosure statement signed by the purchaser whose funds are being released;
- (5) At least seven days have passed since the purchaser whose funds are being released signed the receipt for the Hawaii disclosure statement;

- (6) The escrow agent has not received a valid notice of cancellation of the purchaser's contract from the developer or from the purchaser whose funds are being released;
- (7) The developer has not chosen to protect the purchaser from blanket liens using a lien payment trust or alternative arrangements that require the purchaser's funds to be disbursed from escrow directly to a person other than the developer upon closing; and
- (8) After the purchaser's funds are released to the developer, the aggregate amount of funds released to the developer pursuant to subsection (a) for sales that have not yet closed or been cancelled will not exceed the amount of bond.

(b) A surety bond filed with the director pursuant to subsection (a):

(1) Shall be issued by a bonding company (i) that is authorized to do business in the State, (ii) that is not affiliated with the developer, and (iii) that has a financial rating acceptable to the director; provided, however, that a bonding company that has a current rating for debt securities no lower than the third highest grade conferred by at least two of the national reporting services regularly evaluating insurance companies shall be acceptable to the director; and

(2) Shall provide that where the developer has failed to refund deposits to purchasers as required by this chapter or agreements with purchasers or has failed to transfer deposits into the escrow agent's escrow account when required under the escrow agreement, either the director or the escrow agent may declare the bond in default and the surety shall be required to refund deposits that are due and payable to purchasers of time share interests, or transfer deposits which are to be transferred into the escrow account as required, within thirty days by the surety as a debt to the director or the escrow agent.

(c) A surety bond filed with the director pursuant to subsection (a):

(1) May provide that the surety shall not be liable for an amount greater than the penal sum of the bond;

(2) May provide that the bond shall be called upon only to the extent and amount necessary to bring the developer into compliance with this chapter, the escrow agreement and the purchase agreements; and

(3) May (i) permit the bonding company to relieve itself of further liability under the bond by providing not less than thirty days prior written notice of cancellation or withdrawal mailed to the director, the escrow agent and the developer; provided that such termination or withdrawal shall

not relieve the surety of any liabilities incurred prior to the effective termination of liability stated in the written notice mailed but shall be final thereafter, and (ii) provide that in no event shall the surety be liable in the aggregate for more than the penal sum of the bond.

(d) The director shall accept the form of a surety bond (i) if the form complies with subsection (b) unless other provisions of the bond, excluding the provisions described in subsection (c), will deprive the purchasers of the benefits and protections to be afforded by subsection (b); or (ii) if, in the judgment of the director, the form will give rights and remedies affording equivalent benefits and protections to time share owners to those designed to be afforded by subsection (b). Within forty-five days after the form of the surety bond is submitted to the director, the director shall issue a letter to the developer either accepting the form of the bond or identifying all deficiencies in the form of the bond in sufficient detail so as to permit the developer to cure each deficiency. Within fifteen business days after each subsequent re-submittal of the form of the surety bond, the director shall issue a letter to the developer either accepting the form of the bond or identifying all remaining deficiencies in the form of the surety bond in sufficient detail so as to permit the developer to cure each such deficiency. A deficiency not raised

in the original deficiency letter shall not be raised in any subsequent deficiency letter except to the extent that the new deficiency arises from a response by the developer to a prior deficiency letter. In the event that the director does not issue a deficiency letter within any time period set forth above, the form of the bond shall be deemed to be accepted and, in such event, the director shall provide a letter of acceptance within seven business days after the director receive a written request for it.

(e) If a developer fails to refund a purchaser's funds pursuant to this chapter, including but not limited to a refund due pursuant to section 514E-8, 514E-11, 514-E-11.1, 514E-11.3, or 514E-17, then within thirty days after receipt of a demand by the State or the escrow agent, the surety shall deposit with the escrow agent funds sufficient to pay any refunds due and payable to purchasers that the developer has failed to pay. If the surety disputes: (1) whether the developer has failed to refund a purchaser's funds as required by this chapter; (2) the amount of the refunds due and payable to purchasers; or (3) whether the surety is otherwise obligated to make payment under the bond or the extent to which a payment under the bond shall be made, the surety may, concurrently with the deposit of the funds with the escrow agent or at any time after making such deposit, demand that the escrow agent commence an action for interpleader and

deposit the disputed bond proceeds with the circuit court. In the event that the surety demands an interpleader action, the disputed proceeds of the bond shall not be disbursed to any person other than the court or as directed by order of the court.

(f) Upon the closing of the escrow for the sale of a time share interest, the remainder of the purchaser's funds held in escrow pursuant to subsection (a), if any, shall be disbursed in accordance with section 514E-18.

(g) If a purchaser is entitled to receive a refund of the purchaser's deposits pursuant to this chapter, including but not limited to a refund due pursuant to section 514E-8, 514E-11, 514-E-11.1, 514E-11.3, or 514E-17, then the amount of such refund shall not be reduced to pay the cost of any surety bond that the developer has deposited with the director and the escrow agent pursuant to subsection (a)(1).

(h) If the escrow agreement permits the release of purchasers' funds pursuant to subsection (a), the disclosure statement required by section 514E-9 shall contain the following disclosure:

"Important Notice Regarding Your Deposits: Deposits that you make under your sales contract for the purchase of a time share interest may be disbursed before closing of your purchase. Disbursed funds are not required to be used to

pay for costs of construction and development of your time share units or your time share plan. The escrow agent cannot disburse your deposits unless the developer has deposited a surety bond with the escrow agent. The surety bond will provide for the deposit of funds into the escrow account if the developer fails to deposit any funds required to pay any refund that the developer is required to make to you under Hawaii's time sharing law, Chapter 514E, Hawaii Revised Statutes. IF THE SURETY BOND IS NOT HONORED, THERE IS A RISK THAT YOUR DEPOSITS WILL NOT BE REFUNDED TO YOU. You should carefully consider this risk in deciding whether to proceed with your purchase."

§514E-C Closing deadline; right to cancel. A sales contract for the sale of a time share interest shall specify a deadline by which the closing of the sale must occur. The closing deadline may be a specific date or the expiration of a period of time after the sales contract is signed or becomes binding. The closing deadline shall not exceed thirty-six months from the date that the sales contract is signed by the purchaser unless a longer period is approved by the director. The sales contract may provide that a delay in closing caused by reasons beyond the developer's control shall excuse the developer's non-performance and extend the closing deadline for a period equal to the duration of the delay; provided that in no

case shall the sum of such delays in the aggregate extend the closing deadline for a given purchaser by more than eighteen months. The purchaser may cancel the sales contract at any time after the specified closing deadline, if the closing does not occur on or before the closing deadline, as it may have been extended, for any circumstance not directly or indirectly caused or controlled by the purchaser. A purchaser may exercise the right to cancel pursuant to this section by mailing or delivering a written notice to the developer that the purchaser is cancelling the contract. The written notice shall be sent to the developer at the address specified on the contract, or at such other address as the developer may designate by written notice to the purchaser in accordance with the notice provisions of the sales contract. The developer shall send written notice to the purchaser of any change in the developer's address and the purchaser shall send written notice to the developer of any change in the purchaser's address, each in accordance with the notice provisions of the sales contract."

SECTION 3. Section 514E-1, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read:

"Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other

real or personal property suitable and intended to provide overnight lodgings for one or more individuals.

"Conspicuous type" means type in upper and lower case letters, two point sizes larger than the surrounding type, exclusive of headings, on the page on which it appears and in no less than ten-point type.

"Short-term product" means a contract (i) that provides the buyer a one-time allotment of use nights or points that must be used within a period not to exceed three years, and (ii) that includes an agreement that all or a portion of the consideration paid by a person for the short-term product will be applied to or credited against the price of a future purchase of a time share interest or that the cost of a future purchase of a time share interest will be fixed or locked in at a specified price. A short-term product shall not constitute a time share interest.

"Short-term product buyer" means an individual who has entered into a contract to purchase a short-term product.

"Short-term product seller" means the developer of a short-term product."

2. By amending the definition of "notice of time share plan" to read:

"Notice of time share plan" means an instrument executed by the holder of the legal and equitable title to the fee or long-term leasehold interest in a time share unit, and which

provides notice of the existence of the time share plan and of rights of owners. [~~The notice of time share plan must identify the use period for each time share interest and the name of the initial purchaser thereof.~~] If the time share unit is located outside the State, the notice shall be contained in a declaration of covenants, conditions, and restrictions which provide that the notice shall, as a matter of covenant, have the effects described in section 514E-21. The declaration of covenants, conditions, and restrictions must be prepared so as to (i) constitute a covenant running with and an equitable servitude upon the time share units for the duration of the time share plan, and (ii) have the effects described in section 514E-21."

SECTION 4. Section 514E-10.2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Notwithstanding any other provision of this chapter, the director may issue a limited permit to a developer permitting the offer or sale, in this State, of an additional interest in a time share plan to an existing purchaser in the same time share plan; provided that:

(1) The developer or an affiliated entity of the developer has a time share plan currently registered with the director; provided that the registration was

originally approved or amended within seven years from the date of the offer or disposition, and the registration has not been terminated or withdrawn;

- (2) The developer has not, during the two-year period preceding the time of the offer, had a time share registration suspended, restricted, or revoked in any state or been convicted of an offense involving fraud or dishonesty. In the event the developer satisfies the requirement of paragraph (1) above through an affiliated entity, the developer has not, during the twenty-year period preceding the time of the offer, had a time share registration suspended, restricted, or revoked in any state or been convicted of an offense involving fraud or dishonesty;
- (3) In satisfaction of the disclosure requirements of section 514E-9, the purchaser is provided the time share disclosure documents the purchaser would have received if the purchase had occurred in the state or jurisdiction where the purchaser initially purchased the time share interest;
- (4) The contract for purchase signed by the purchaser includes a notice that is the same as or similar to the rescission notice required pursuant to section

514E-9(a)(7); provided that the rescission period shall be at least seven days;

(5) All funds and any negotiable instruments received during the seven-day rescission period shall be placed in an escrow account in the State. The escrow agent shall be a bank, savings and loan association, or trust company authorized to do business in the State under an escrow arrangement or a corporation licensed as an escrow depository under chapter 449. The funds or negotiable instruments may be released from escrow; provided that the release is in accordance with section 514E-17 [~~o~~], 514E-18[-], or 514E-B. Any escrow account established for any out-of-state time share plan offered under this subsection may be maintained in the state where the time share plan is located after the seven-day rescission period has expired; provided that the escrow agent submits to personal jurisdiction in this State;

(6) The contract for purchase shall contain the following statement in conspicuous type:

"THIS TIME SHARE PLAN HAS NOT BEEN REVIEWED OR APPROVED BY THE STATE OF HAWAII BECAUSE YOU ALREADY OWN AN INTEREST IN THIS TIME SHARE PLAN AND BECAUSE

_____ (DEVELOPER OR AFFILIATE'S

NAME) HAS A TIME SHARE PLAN CURRENTLY REGISTERED WITH THE STATE OF HAWAII (INCLUDE REGISTRATION #). (IF APPLICABLE)(AFFILIATE) IS AN AFFILIATED ENTITY OF THE SELLER AS THE TERM IS DEFINED IN CHAPTER 514E, HAWAII REVISED STATUTES."; and

- (7) The offer complies with the provisions of sections 514E-11(2) to 514E-11(9), 514E-11(11) to 514E-11(13), and 514E-11.1."

2. By amending subsection (c) to read:

"(c) Notwithstanding any other provision of this chapter, the director may issue a limited permit to a developer permitting the offer or sale by the developer, in this State, of a time share interest in a time share plan located outside of this State, but within the United States, to an individual who currently owns a time share interest that was purchased from that developer, or from an affiliated entity of that developer; provided that:

- (1) The developer or an affiliated entity of the developer has a time share plan currently registered with the director; provided that the registration of the developer or an affiliated entity of the developer was originally approved or amended within seven years from the date of the offer or disposition and which registration has not been terminated or withdrawn;

- (2) The developer has not, during the two-year period preceding the time of the offer, had a time share registration suspended, restricted, or revoked in any state or been convicted of an offense involving fraud or dishonesty. In the event the developer satisfies the requirement of paragraph (1) above through an affiliated entity, the developer has not, during the twenty-year period preceding the time of the offer, had a time share registration suspended, restricted, or revoked in any state or been convicted of an offense involving fraud or dishonesty;
- (3) The developer shall provide the purchaser with all time share disclosure documents required to be provided to purchasers as if the offer occurred in the state where the time share plan is located;
- (4) The contract for purchase shall include a notice that is the same as or similar to the rescission notice required pursuant to section 514E-9(a)(7); provided that the rescission period shall be at least seven days;
- (5) In satisfaction of section 514E-16, all funds and any negotiable instruments received during the seven-day rescission period shall be placed in an escrow account in the State. The escrow agent shall be a bank,

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savings and loan association, or trust company authorized to do business in the State under an escrow arrangement or a corporation licensed as an escrow depository under chapter 449. The funds or negotiable instruments may be released from escrow; provided that the release is in accordance with section 514E-17 [~~or~~], 514E-18[-], or 514E-B. Any escrow account established for any out-of-state time share plan offered under this subsection may be maintained in the state where the time share plan is located after the seven-day rescission period has expired; provided that the escrow agent submits to personal jurisdiction in this State;

- (6) The developer shall provide the purchaser, in writing, either in the disclosure documents or otherwise, all of the following:
 - (A) A description of the type of time share plan offered, including the duration and operation of the time share plan;
 - (B) A description of the existing or proposed accommodations and amenities in the time share plan;
 - (C) A description of the method and timing for performing maintenance on the accommodations;

- (D) If applicable, copies of the declaration, association articles of incorporation, association bylaws, and association rules and regulations; and
- (E) The current annual budget for the time share plan;
- (7) The time share plan being offered is registered in the state where the time share plan is located; or in the event registration of the time share plan is not required in the state where the time share plan is located, the time share plan being offered is in compliance with the applicable laws of that state; and
- (8) The contract for purchase shall contain the following statement in conspicuous type:

"THIS TIME SHARE PLAN HAS NOT BEEN REVIEWED OR APPROVED BY THE STATE OF HAWAII BECAUSE YOU ALREADY OWN AN INTEREST IN A TIME SHARE PLAN THAT YOU PURCHASED FROM _____ (DEVELOPER OR AFFILIATE'S NAME), AND _____ HAS A TIME SHARE PLAN CURRENTLY REGISTERED WITH THE STATE OF HAWAII (INCLUDE REGISTRATION #). (IF APPLICABLE) (AFFILIATE) IS AN AFFILIATED ENTITY OF THE SELLER AS THAT TERM IS DEFINED IN CHAPTER 514E, HAWAII REVISED STATUTES. THE TIME SHARE INTEREST YOU ARE PURCHASING REQUIRES CERTAIN PROCEDURES TO BE FOLLOWED IN ORDER

FOR YOU TO USE YOUR INTEREST. THESE PROCEDURES MAY BE DIFFERENT FROM THOSE FOLLOWED IN OTHER TIME SHARE PLANS. YOU SHOULD READ AND UNDERSTAND THESE PROCEDURES PRIOR TO PURCHASING." "

SECTION 5. Section 514E-16, Hawaii Revised Statutes, is amended to read as follows:

"§514E-16 Deposit of purchaser's funds, notes, and contracts into escrow. (a) All funds and any negotiable instruments and purchase money contracts received before closing from or on behalf of purchasers or prospective purchasers in connection with the purchase or reservation, in the State, of time share interests must be placed in an escrow account. However, the developer or a sales agent may hold, until the expiration of the seven-day-cancellation period provided by section 514E-8 or any longer purchaser cancellation period provided in the sales contract, a negotiable instrument, or purchase money contract made by a purchaser:

- (1) For which subsequent holders cannot claim holder in due course status within the meaning of article 3 of chapter 490; or
- (2) Where the payee is:
 - (A) The escrow agent; or
 - (B) The trustee of a lien payment trust.

(b) The escrow agent must be a bank, savings and loan association, or a trust company authorized to do business in the State under an escrow arrangement or a corporation licensed as an escrow depository under chapter 449. However, in connection with sales made out of the State for the use of time share units located in the State, the escrow agent may be located in and the purchasers' funds, negotiable instruments, and purchase money contracts may be impounded in the jurisdiction where the sale is made, if the law of such jurisdiction requires it.

(c) The establishment of such an escrow account shall be evidenced by a written escrow agreement between the developer and the escrow agent. The escrow agreement must provide for the handling of purchaser's funds, negotiable instruments, and purchase money contracts as required by this chapter and must contain any provisions required by rules adopted by the director pursuant to chapter 91.

(d) A developer or an affiliate of a developer who provides purchase money financing to a time share purchaser shall deposit into the escrow account established under subsection (a) all loan payments made by the purchaser prior to closing. The deposit shall be made no later than the last to occur of: (1) seven business days after receipt of the payment by the developer, an affiliate of the developer, or the developer's or affiliate's servicing agent; or (2) seven

business days following the date upon which any payment made
prior to closing becomes good and immediately available funds.
Thereafter, the payments may be released from escrow in
accordance with section 514E-17, 514E-18, or 514E-B."

SECTION 6. Section 514E-30, Hawaii Revised Statutes, is amended to read as follows:

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

(b) This chapter applies to the offer and sale in Hawaii
of short-term products. This chapter does not apply to the
offer or sale of short-term products outside of Hawaii,
regardless of whether the short-term product buyer shall have
the right to use accommodations in Hawaii."

SECTION 7. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute

appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2115; provided that sections 514E-B and 514E-C, Hawaii Revised Statutes, established pursuant to section 2 of this Act, and sections 4 and 5 of this Act shall be repealed on July 1, 2120.

Report Title:

Time Sharing; Time Share; Short-term Product; Right to Cancel;
Purchasers; Developers; Bond

Description:

Provides cancellation rights to persons who contract to buy a short-term product in Hawaii. Allows disbursement of purchasers' funds to a developer; provided that the developer first posts a bond. Effective 07/01/2115. (SD2)

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

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April 2, 2015

Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
Members of the House Committee on
Consumer Protection & Commerce
Twenty-Eighth Legislature
Regular Session, 2015

Re: S.B. 754, SD 2, HD1
Hearing on April 6, 2015, 2:30 p.m.
Conference Room 325

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am appearing as legislative counsel for ARDA Hawaii.

ARDA Hawaii supports the bill. ARDA is currently working with the DCCA on some amendments to the bill.

Last summer, representatives of the Department of Commerce and Consumer Affairs met with representatives of the American Resort Development Association to discuss regulatory issues relating to the time share industry in Hawaii. This legislation is an outgrowth of those discussions.

1. Short-Term Products.

Part of this legislation deals with short-term products, an area that is not currently regulated in the State of Hawaii.

Some people who attend a time share sales presentation would like to have the opportunity to stay in a time share project before they decide whether to make a purchase. Short-term products are intended to allow a potential time share buyer to stay in a time share resort on a trial basis. If the buyer decides to proceed with a purchase, some or all of the amount paid by the buyer for the short-term product typically is credited toward the purchase price of the time share interest.

In some states, certain disclosures must be given to prospective short-term product buyers. In addition, the buyers have a right to rescind a contract to purchase a short-term product for a certain number of days after they sign their contract.

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ARDA is prepared to support the provisions of the bill regulating short-term products in recognition of the fact that streamlining the timeshare regulatory environment in Hawaii will require ongoing cooperation and give-and-take between the DCCA and the industry.

2. Escrow Bonds.

In 1982, at the request of the Chairperson of the House Consumer Protection Committee, I drafted comprehensive legislation regulating the financial structure of time share plans and establishing escrow requirements governing the sale of time share interests.

The 1982 amendment requires that the developer establish an escrow account in Hawaii¹ pursuant to a separate written escrow agreement between the developer and an escrow agent.² All funds received from the buyers must be deposited in the escrow account until closing.³

Funds may be released from escrow prior to closing if the buyer cancels his or her purchase during the 7-day rescission period or if the contract is otherwise terminated in accordance with its terms.

Buyers' funds may also be used to pay the costs of constructing and developing a time share project if certain conditions are met.⁴ Those conditions include a requirement that the developer deposit the following with the Director of the Department of Commerce and Consumer Affairs:

- a copy of the executed construction contract;
- a statement showing the costs to complete the project, including the costs to furnish the time share units;
- evidence satisfactory to the Director that there are sufficient funds to pay the costs of constructing, furnishing and completing the project (whether from buyers' funds, the developer's funds, or loan proceeds);
- a copy of executed performance and labor and material payment bonds.

If the foregoing requirements are met, then the buyer's funds may be disbursed to pay the costs of construction (to the extent completed) and the cost of purchasing furnishings and fixtures for the time share units. The Act also permits disbursement of buyers' funds to pay

¹ §514E-16(b), H.R.S.

² §514E-16(c), H.R.S.

³ §514E-16(a), H.R.S.; Rule 16-106-34(c)(1), H.A.R.

⁴ §514E-17(a)(4), H.R.S.

architectural, engineering, interior design, finance, and legal fees. And buyers' funds may be disbursed to pay "other incidental expenses of constructing the time share units or developing the time share plan", although the nature of such expenses is not defined by the Act.

The legislative history is instructive insofar as it indicates the intended purpose of this section:

* * * Subsection (4) parallels section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers funds to pay the costs of construction. A developer will not be permitted to use buyers funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amounts due under the construction contract, including change orders up to 10%, and all other costs of construction will be paid.⁵

Under §514A-67 of the Hawaii condominium law (now Section 514B-92, H.R.S.), buyers' funds may be disbursed to pay the costs of construction (to the extent completed) and also to pay architectural, engineering, finance, and legal fees. (The condominium law does not permit disbursements for furnishings or for interior design fees.) The statute also permits disbursement of purchasers' funds to pay "other incidental expenses of the condominium".

These measures are intended to ensure that the project will be constructed. However, none of these measures protect the buyers' right to a refund in other circumstances. For example:

- If the developer defaults under its construction loan, the lender can foreclose on the project and acquire title free of the rights of the buyers – even though the buyers' funds may have been used to help pay the cost of constructing the project.
- If the developer fails to complete construction *on time*, buyers may have a right to cancel but there may be no money for escrow to refund.
- If there are material differences between the project as represented and the project as actually constructed, buyers have a right to a refund but there may be no money available to be refunded.

In the market downturn of 2007 – 2008, many condominium unit purchasers sought to cancel their sales contracts and obtain a refund of their deposits. Our firm was involved in buyer remorse lawsuits covering more than 100 units.

⁵ Conf. Com. Rep. No. 52-82 on H.B. No. 3078-82, 1982 Senate Journal, page 901.

In those cases, construction of the condominium had been completed. Buyers asserted, however, that they were entitled to rescind their purchases for various reasons. We advised the buyers and their counsel that, while they may have claims to rescind their purchases, all of the buyers' deposits had been used to pay construction costs, so there was no money in escrow to refund.

This bill proposes to authorize developers to withdraw funds from escrow upon posting an escrow bond. An escrow bond assures that buyers will receive any refund to which they become entitled. With an escrow bond, buyers can get a refund of their deposits if the lender forecloses, if the developer fails to complete construction, if the developer does not finish construction on time, or if the project is materially different than promised.

This concept is currently used in Florida. ARDA Florida's legislative counsel reports that the Florida regulators have never had to call an escrow bond.

Of course, a bond is only as good as the company that issues it. Buyers' funds held in escrow are deposited in a bank. But bonding companies sometimes have higher credit ratings than the banks used to hold funds in escrow. For example, consider these ratings of prominent bonding companies by Moody's:

Federal Insurance Company (Chubb)	Aa2/Stable
Zurich Insurance Company	Aa3/Stable
Traveler's Casualty and Surety Company	Aa2/Stable
Westchester Fire Insurance Company (ACE)	A1/Stable

as compared to the ratings by Moody's of prominent local and national banks:

J.P. Morgan Chase & Co.	A3/ Stable
Bank of America	Baa2/Stable
CitiGroup	Baa2/Stable
Wells Fargo	Aa3/Stable
Bank of Hawaii	Aa3/Stable
First Hawaiian Bank	A2

In addition, bonding programs provide a prequalification process that, in the case of an escrow bond, benefits the buyers. Issuance of a bond means that the bonding company has completed a thorough underwrite on the financial wherewithal of the developer and expects the developer to perform its obligations. By contrast, a bank merely accepts and holds the deposits.

In short, under the current system of releasing funds for construction, consumers could potentially get a half-complete project with a litigating developer and lender. The project could

never be built and consumers could even lose their funds entirely in the case of an eventual liquidation of the project. An escrow bond can help to avoid this.

3. Other Revisions and Updates.

The bill updates certain provisions of Chapter 514B to be consistent with current practice.

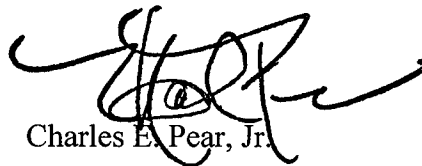
For example, the bill proposes to amend the definition of "notice of time share plan" to delete the requirement that the notice identify the initial use period for each time share interest and the name of the initial purchaser of the time share interest.

When the notice of time share plan concept was introduced in the 1982 legislation, a time share buyer typically purchased the right to use a specific unit for a particular week or "use period." Now, many time share buyers purchase an allotment of "points," which are like frequent flyer miles - you can use them to go a lot of different places, but the number of points required may differ depending on the destination that you choose. As a result, it is no longer practical to identify the use period of a time share interest.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of some small assistance.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP

A handwritten signature in black ink, appearing to read 'Charles E. Pear, Jr.', with a stylized flourish extending to the right.

Charles E. Pear, Jr.

CEP:kn

STARWOOD
VACATION OWNERSHIP

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

April 6, 2015

To: Honorable Angus McKelvey, Chair
Honorable Justin Woodson, Vice Chair
House Committee on Consumer Protection & Commerce

RE: **SB 754 SD2 HD1 – Relating to Time Sharing – Support with amendments**
Conference Room 325; 2:30 PM

Chair McKelvey, Vice Chair Woodson and members of the committee:

Starwood Vacation Ownership (“Starwood”) appreciates the opportunity to offer testimony in support of SB 754 SD2 HD1, with proposed amendments by the American Resort Development Association (ARDA) of Hawaii. This measure permits the use of purchaser funds upon the posting of a letter of credit, bond or other financial assurance and provides enhanced consumer protection by regulating the sale and offer of timeshare short-term products. This measure ensures proper disclosure, and a recession period is given to the consumer purchasing a short term product and continues the modernization of Hawaii’s timeshare act.

Permitting funds to be withdrawn from escrow upon the posting of a letter of credit, bond or other financial assurance is beneficial to developers by assisting with cash flow in large resort construction projects, which often takes two to three years to complete. It is beneficial to consumers because it guarantees them a refund of all purchase funds if the project is not timely completed. Currently, purchaser funds may be released to reimburse a developer for construction expenditures. This procedure could result in an incomplete project and insufficient funds remaining to complete the project.

For over two years, the industry has worked with the Department of Commerce and Consumer Affairs (DCCA) on this measure. This legislative session, ARDA Hawaii attorney Charlie Pear, has been diligently working with the DCCA, and as a result, an HD2 has been drafted. We respectfully ask for the committee’s support of the HD2 as we believe it has addressed all of the DCCA’s reasonable concerns and enhances consumer protection while encouraging the development of new accommodations in Hawaii.

Thank you for the opportunity to testify on SB 754 SD2 HD1.

Robin Suarez
Vice President/General Counsel
Starwood Vacation Ownership

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

DATE: April 6, 2015

TO: Representative Angus McKelvey
Chair, Committee on Consumer Protection and Commerce
Submitted Via CPCtestimony@capitol.hawaii.gov

RE: **S.B. 754, S.D.2, H.D.1 - Relating to Time Sharing**
Hearing Date: Monday, April 6, 2015 at 2:30 p.m.
Conference Room 325

Dear Chair McKelvey and Members of the Committee,

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, WorldMark by Wyndham and Shell Vacations Club brands.

Wyndham **strongly supports** S.B. 754, S.D.2, H.D.1, which provides a seven day right of cancellation to purchasers of short-term time share products, and allows disbursement of purchasers' funds from escrow to a developer, provided that the developer first posts a bond, letter of credit or other financial assurance to an unaffiliated third party.

Under current Hawaii law, a developer that constructs a time share project must hold a time share buyer's funds in escrow after the seven-day cancellation period has passed, the project is completed, and closing has occurred. There is only one limited circumstance when the developer may remove funds from escrow, and that process is labor and time intensive for both the developer and the DCCA. This means that a significant amount of money – potentially tens of millions of dollars – could remain in escrow for months at a time. S.B. 754, S.D.2, H.D.1 would protect these funds with a third party assurance, give the consumer ample protection if the project was not completed, and would grant the developer access to funds to apply to construction costs.

Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

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This approach has been implemented in Florida and many other jurisdictions around the United States, and has been demonstrated to benefit both time share developers and time share purchasers. If the developer fails to complete a construction project, the consumer would be entitled to a refund of funds where the developer is no longer able to provide one.

In addition, the seven day right of cancellation provided to purchasers of short-term time share products provides consumers the opportunity to explore the time share experience on a trial basis, with the benefit of cancellation after a reasonable amount of time.

Wyndham notes that there are concerns regarding the H.D.1 version of the bill that are still being discussed by stakeholders, and respectfully requests this Committee keep the measure moving to allow stakeholders time to facilitate discussions. Thank you for the opportunity to submit testimony on this measure.