
A BILL FOR AN ACT

RELATING TO TIME SHARING PLANS.

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

1 SECTION 1. Chapter 514E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§514E- Ministerial amendments. (a) The developer may
5 submit an amended disclosure statement that updates:

6 (1) The name (unless the entity or form of entity has also
7 changed), address, or other contact information
8 contained in the disclosure statement;

9 (2) The budget contained in, or attached as, an exhibit to
10 the disclosure statement, and the amount of the annual
11 or other assessments for the time share interests;

12 (3) The real property taxes, transient accommodations
13 taxes, transient occupancy taxes, general excise
14 taxes, or any other taxes of any kind or nature
15 applicable to the time share interests, the time share
16 units, or the time share plan; or



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- 1 (4) The description of any pending or anticipated
2 litigation.
- 3 (b) An amended disclosure statement submitted pursuant to:
- 4 (1) Subsection (a) (1), (a) (2), or (a) (3) shall set an
5 effective date for the amended disclosure statement,
6 which shall be no sooner than twenty days after the
7 date of submittal, and the amended disclosure
8 statement shall be deemed accepted by the director as
9 of that date unless otherwise agreed to by the
10 developer and the director; and
- 11 (2) Subsection (a) (4) shall set an effective date for the
12 amended disclosure statement, which shall be no sooner
13 than forty-five days after the date of submittal, and
14 shall be accompanied by copies of pleadings or other
15 documents supporting the proposed change to the
16 exhibit. Within thirty days after the amended
17 disclosure statement and supporting documentation is
18 submitted, the director shall notify the developer of
19 any changes to the exhibit required by the director.
20 Unless otherwise agreed to by the developer and the
21 director, the amended disclosure statement, with any



1 changes to the exhibit required by the director, shall
2 be deemed accepted by the director as of the effective
3 date shown on the amended disclosure statement."

4 SECTION 2. Section 514E-1, Hawaii Revised Statutes, is
5 amended by adding three new definitions to be appropriately
6 inserted and to read as follows:

7 "Plan documents" means the primary plan documents and the
8 supplementary plan documents.

9 "Primary plan documents" means the constituent documents of
10 the time share plan, including, but not limited to, any time
11 share declaration, any trust agreement, the articles of
12 incorporation and bylaws of the association (if the association
13 is a corporation) or the operating agreement or similar
14 organizational document (if the association is a limited
15 liability company or other entity), the rules for reserving the
16 use of the time share units, and the rules governing the
17 occupancy of the time share units. Any plan document that
18 modifies the terms and provisions of the time share plan (for
19 example, by establishing a new class or category of time share
20 interest having rights that differ from existing time share
21 interests in the time share plan) shall constitute a primary



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1 plan document and shall not constitute a supplementary plan
2 document.

3 "Supplementary plan documents" means any instrument that:

4 (1) Submits or commits property to the time share plan;

5 (2) Makes property previously submitted to the time share
6 plan available for use by the time share owners;

7 (3) Removes property from the time share plan; or

8 (4) Terminates the right of time share owners to use
9 property previously made available for use by the time
10 share owners;

11 including, but not limited to, any declaration of annexation,

12 declaration of de-annexation, active property declaration,

13 notice of access, notice of conveyance, notice of activation, or

14 any deed conveying property to the trustee of a time share plan

15 or to the time share owners association."

16 SECTION 3. Section 514E-9, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Any offering of a time sharing plan to the public
19 shall disclose:

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



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- 1 (2) The name and address of the plan manager, if any, and
2 a description of the plan manager's responsibilities
3 and authority;
- 4 (3) A description of the time share units, including the
5 developer's schedule for completion of all buildings,
6 units, and amenities and dates of availability;
- 7 (4) If the time share plan is located in a condominium
8 property regime, a description of the project and, if
9 the purchaser will be a direct owner of a unit in the
10 condominium, a brief description of any pertinent
11 provisions of the project instruments [✓] of the
12 condominium;
- 13 (5) Any restraints on the transfer of the buyer's time
14 share interest in the time share units or plan;
- 15 (6) Whether the time share plan is a time share ownership
16 plan or a time share use plan, along with a
17 description of the rights and responsibilities under
18 said plan;
- 19 (7) A statement that there is a seven-calendar-day period
20 of mutual rescission;



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- 1 (8) A statement that pursuant to section 514E-11.3, every
2 sale or transfer, made in violation of this chapter is
3 voidable at the election of the purchaser;
- 4 (9) [~~Notice~~] A list of the primary plan documents of the
5 time share plan and, if the plan is limited to a
6 single site, notice of any liens, title defects or
7 encumbrances on or affecting the title to the units or
8 plan;
- 9 (10) [~~Notice~~] An exhibit that contains notice of any
10 pending or anticipated suits that are material to the
11 time share units or plan, of which the developer has,
12 or should have, knowledge;
- 13 (11) The total financial obligation of the purchaser, which
14 shall consist of:
 - 15 (A) A statement that the purchaser is obligated to
16 pay the initial price stated in the purchaser's
17 purchase agreement; and
 - 18 (B) A list or description of any additional charges
19 to which the purchaser may be subject;
- 20 (12) An estimate of the dues, maintenance fees, real
21 property taxes, and similar periodic expenses, and the



1 method or formula by which they are derived and
2 apportioned;

3 (13) The disclosure statement under subsection (d), if
4 applicable; and

5 (14) Other disclosures required by the director, as
6 provided by rules adopted pursuant to chapter 91."

7 SECTION 4. Section 514E-10, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§514E-10 Registration required; developer, acquisition
10 agent, plan manager, and exchange agent; registration renewal.**

11 (a) A developer shall not offer or dispose of a time share unit
12 or a time share interest unless the disclosure statement
13 required by section 514E-9 is filed with the director pursuant
14 to the time specified in this chapter, or the development is
15 exempt from filing, and the time share plan to be offered by the
16 developer is accepted by the director for registration under
17 this chapter. The director shall not accept a developer's time
18 share plan if the developer does not possess a history of
19 honesty, truthfulness, financial integrity, and fair dealing.

20 (b) An acquisition agent (including the developer if it is
21 also the acquisition agent) shall register under this chapter by



1 filing with the director a statement setting forth the time
2 sharing plan for which it is providing prospective purchasers,
3 its address, the telephone number, other information required by
4 the director as provided by rules adopted pursuant to chapter
5 91, and, if the acquisition agent is not a natural person, the
6 name of the responsible managing employee; provided that an
7 acquisition agent licensed under chapter 467 as a real estate
8 broker shall not be required to register under this chapter.
9 All acquisition agents not licensed under chapter 467 shall be
10 approved by the director. The director shall not approve any
11 acquisition agent who is not of good character and who does not
12 possess a reputation for honesty, truthfulness, and fair
13 dealing. The acquisition agent shall furnish evidence that the
14 acquisition agent is bonded as required by rules adopted by the
15 director pursuant to chapter 91 to cover any violation by the
16 acquisition agent of any solicitation ordinance or other
17 regulation governing the use of the premise or premises in which
18 the time share plan is promoted; provided that the acquisition
19 agent shall be separately bonded for each time share plan for
20 which it is providing prospective purchases.



1 (c) A plan manager (including the developer if it is also
2 the plan manager) shall register under this chapter by filing
3 with the director a statement setting forth the time sharing
4 plan that it is managing, its principal office address,
5 telephone number, and responsible managing employee. The plan
6 manager shall furnish evidence that the plan manager is bonded
7 as required by rules adopted by the director pursuant to chapter
8 91 to cover any default of the plan manager and any of its
9 employees of their duties and responsibilities; provided that
10 the plan manager shall be separately bonded for each time share
11 plan under the management of the plan manager.

12 (d) An exchange agent (including the developer if it is
13 also an exchange agent) shall register under this chapter by
14 filing with the director a statement setting forth the time
15 sharing plan for which it is offering exchange services, its
16 principal office address and telephone number, and designate its
17 responsible managing employee.

18 (e) Any plan manager or developer registration required in
19 this section shall be renewed by December 31 of each even-
20 numbered year, and any acquisition agent or exchange agent
21 registration required in this section shall be renewed on



1 December 31 of each odd-numbered year; provided that this
2 subsection shall not relieve the person required to register
3 from the obligation to notify the director promptly of any
4 material change in any information submitted to the director,
5 nor shall it relieve the developer of its obligation to promptly
6 file amendments or supplements to the disclosure statement, and
7 to promptly supply the amendments or supplements to purchasers
8 of time share interests.

9 (f) An application for renewal of a developer registration
10 shall be on a form prescribed by the director and shall include:

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

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

17 (A) The time share units in the time share plan
18 registered pursuant to this chapter; the total
19 number of time share interests registered for
20 sale in each unit pursuant to this chapter; and
21 the total number of time share interests that



- 1 have not yet been sold as of the date specified
2 in the developer's certification, which date
3 shall not be more than sixty days prior to the
4 date of the developer's certification; or
- 5 (B) The property in the time share plan registered
6 pursuant to this chapter; the total number of
7 points registered for sale in each property
8 pursuant to this chapter; and the total number of
9 points in the time share plan that have not yet
10 been sold as of the date specified in the
11 developer's certification, which date shall not
12 be more than sixty days prior to the date of the
13 developer's certification;
- 14 (3) If the developer is a corporation, partnership, joint
15 venture, limited liability company, or limited
16 liability partnership, an original certificate of good
17 standing issued by the business registration division
18 of the department of commerce and consumer affairs not
19 more than forty-five days before the date of
20 submission of the renewal application; and
- 21 (4) The biennial renewal fee.



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

- 4 (1) A financial statement of the developer; or
- 5 (2) A policy of title insurance, a preliminary title
6 report, abstract of title, or certificate of title on
7 the units or time share interests in the time share
8 plan.

9 (h) Subject to subsection (i), developers shall not be
10 required to include copies of encumbrances against title to the
11 time share units in:

- 12 (1) An application for a developer registration;
- 13 (2) An application to amend a developer registration; or
- 14 (3) An application for renewal of a developer
15 registration.

16 (i) The developer shall be required to submit:

- 17 (1) Copies of the primary plan documents for the time
18 share plan that is the subject of the application;
- 19 (2) Copies of any supplementary plan documents as the
20 director shall request;



1 (3) If the time share interest will not be conveyed to the
2 purchaser free and clear of blanket liens:

3 (A) Copies of any recorded blanket liens that will
4 remain on title after the closing of the sale of
5 a time share interest in the time share plan; and

6 (B) Copies of any recorded non-disturbance agreements
7 or other instruments protecting the time share
8 interests from any recorded blanket liens that
9 will remain on title after the closing of the
10 sale of a time share interest in the time share
11 plan; and

12 (4) Copies of other recorded encumbrances as the director
13 shall specifically request for the purpose of
14 determining the compliance of the time share plan with
15 the disclosure and blanket lien protection
16 requirements of this chapter."

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



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

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INTRODUCED BY:



JAN 23 2019



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Report Title:

Time Sharing Plans; Developer Applications and Disclosure Statements

Description:

Eliminates the requirement that a time share developer (1) file copies of all encumbrances affecting title to all time share units in a time share plan as part of the registration process; and (2) include in the time share disclosure statement a list all encumbrances affecting title to all time share units in a time share plan. Requires that a time share disclosure statement include a description of the condominium documents only for those time share plans where the time share owners are actually unit owners either in fee or to the extent and for the purposes provided in a recorded unit lease. Permits the developer to make ministerial updates to the disclosure statement on an expedited basis.

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

