
A BILL FOR AN ACT

RELATING TO TIME SHARING.

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

1 SECTION 1. The legislature finds that while existing law
2 provides purchasers of condominiums with the protection of
3 rescission rights when material changes have been made to the
4 condominium public reports after a sales contract becomes
5 binding, there are no laws that provide purchasers of time share
6 interests with the protection of rescission rights under similar
7 circumstances.

8 Accordingly, the purpose of this Act is to:

9 (1) Require developers to provide a notice to purchasers
10 of time share interests of any material change or
11 pertinent change in the information in the current
12 disclosure statement; and

13 (2) Provide purchasers of time share interests rescission
14 rights for material changes made to the disclosure
15 statement.

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

4 "§514E-A Rescission due to a material change; sales
5 contract. (a) Purchasers shall have a seven calendar day right
6 to rescind a sales contract for the purchase of a time share
7 interest from a developer if, prior to closing, there is a
8 material change in the time share plan. This rescission right
9 shall not apply in the event of any additions, deletions,
10 modifications, and reservations, including but not limited to
11 the merger, addition, or phasing of a plan, made pursuant to the
12 terms of the time share instruments.

13 (b) The developer shall deliver to a purchaser by
14 certified mail a description of the material change on a form
15 prescribed by the director in addition to a rescission form.
16 The rescission period shall end seven calendar days after the
17 purchaser's receipt of the notice of material change. The
18 purchaser may let the seven-day rescission period expire without
19 exercising the purchaser's right of rescission in accordance
20 with subsection (c), in which case the rescission right shall be
21 terminated.



1 (c) In order to be valid, a rescission form must be signed
2 by all purchasers of the affected time share interest and
3 postmarked no later than midnight of the seventh calendar day
4 after the date that the purchaser received the rescission form
5 from the developer. In the event of a valid exercise of a
6 purchaser's right of rescission pursuant to this section, the
7 purchasers shall be entitled to a prompt and full refund of any
8 moneys paid; provided that the developer may withhold up to \$25
9 in the event the purchaser does not return all materials to the
10 developer.

11 (d) The rescission form obtained by the developer under
12 this section shall be kept on file in possession of the
13 developer and shall be subject to inspection at a reasonable
14 time by the director or the director's staff or agents, for a
15 period of three years from the date the receipt or return
16 receipt was obtained.

17 (e) This section shall not preclude a purchaser from
18 exercising any rescission rights pursuant to a contract for the
19 sale of a time share interest or any applicable common law
20 remedies.



1 (f) A purchaser's sale may be closed when the escrow agent
2 receives a statement from the developer stating that at least
3 five days have passed since the purchaser's rescission period
4 under subsection (a) has expired, and the developer has not
5 received from the purchaser a rescission form validly exercising
6 the purchaser's right of rescission pursuant to subsection (c).

7 §514E-B Notice of change. (a) In the event of a
8 pertinent change or a material change to the information
9 required by section 514E-9, until such time as the director
10 accepts an amended disclosure statement disclosing the change,
11 the developer shall provide to each purchaser of a time share
12 interest whose purchase has not yet closed, a notice of any such
13 change on a form prescribed by the director. For new sales, the
14 notice of change may be provided with the most recently accepted
15 disclosure statement. In all other cases, the notice of change
16 shall be provided by certified mail.

17 (b) The developer may continue to sell and to close the
18 sale of time share interests in the time share plan; provided
19 that if the notice of change discloses a material change, the
20 sale may close only when the requirements of section 514E-A(f)
21 have been met."



1 SECTION 3. Section 514E-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 "Material change" means any change to the information
5 required by section 514E-9 and that directly, substantially, and
6 adversely affects the use or value of a purchaser's time share
7 interest or the time share units in the time share plan.

8 "Pertinent change" means a change, other than a material
9 change, to the information required by section 514E-9. Without
10 limiting the foregoing, the following shall constitute
11 "pertinent changes" and shall not constitute material changes:

12 (1) The annexation of fully constructed time share units
13 located in a component site that has previously been
14 accepted by the director for registration in the time
15 share plan;

16 (2) Any change to the address or telephone number of the
17 developer;

18 (3) Any change to the name, address, or telephone number
19 of the escrow agent, plan manager, any sales agent,
20 any acquisition agent, or any exchange agent;



- 1 (4) Any change to the name, address, or telephone number
2 of any officers, directors, employees, or agents,
3 including but not limited to responsible managing
4 employees, and agents for service of process, of the
5 developer, escrow agent, plan manager, sales agent,
6 acquisition agent, or exchange agent; and
7 (5) The dismissal of any litigation disclosed in the
8 disclosure statement."

9 SECTION 4. In codifying the new sections added by section
10 2 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 5. New statutory material is underscored.

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



Report Title:

Time Sharing; Notice of Material Change; Purchaser Right to Cancel

Description:

Provides purchasers of time shares with rescission rights if there is a material change to the information contained in the disclosure statement. Requires developers to provide notice to the purchaser regarding any pertinent or material change made to the disclosure statement. (SD2)

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

