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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Thursday, February 20, 2020
9:00 a.m.
State Capitol, Conference Room 229**

**On the following measure:
S.B. 2011, RELATING TO TIME SHARES**

Chair Baker and Members of the Committee:

My name is Lori Beth Van Cantfort, and I am the Time Share Administrator of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocational Licensing Division. The Department supports this bill.

The purposes of this bill are to amend Hawaii Revised Statutes (HRS) chapter 514E (Time Sharing Plans) to: (1) require that a plan manager or board of directors keep an accurate and current list of the names, mailing addresses, and electronic mail addresses of board members and time share owners association members; and (2) require the list of board members and association members to be make available to owners under certain terms and for reasonable costs.

Currently, Hawaii Administrative Rules section 16-106-12(g) requires plan managers to keep a current owners list. However, the rule also provides that "if the association's by-laws or rules do not authorize the release of this list to a time share owner, the association shall develop a reasonable procedure by which time share

owners may solicit votes or proxies or by which time share owners may provide information to other time share owners with respect to association matters.” Depending on the procedures developed by a plan manager, it may be difficult for a time share owner to solicit votes on an issue, to be elected onto the association board, or to provide information to other time share owners. This bill will help to ensure that time share owners have access to the owners list so that owners may share information and have a fair opportunity to participate in association board matters.

S.B. 2011 further provides that owners requesting a list must provide an affidavit stating that: (1) the list shall be used by the owner personally and only for the purpose of soliciting votes or proxies or soliciting information; and (2) the list shall not be used or furnished to anyone else for any other purpose. This provision requiring an affidavit will help to ensure that the owners list is not used for any improper purpose. In addition, this provision is similar to HRS section 514B-153(e), which pertains to condominium association records, and will therefore give time share owners the same right to obtain an owners list as condominium owners.

Lastly, should the Committee pass S.B. 2011, the provision requiring an affidavit on page 2, line 14 should be amended to provide that the membership list shall be used for the purpose of “providing information to other association members,” and not “soliciting information to board members.” This would be consistent with the condominium law.

Thank you for the opportunity to testify on this bill.



February 20, 2020

TO: Senator Rosalyn H. Baker, Chair Commerce, Consumer Protection, and Health
Senator Stanley Chang, Vice Chair Commerce, Consumer Protection, and Health
Members of the Senate Consumer Protection and Commerce Committee

FR: American Resort Development Association - (ARDA) Hawaii
Mitchell A. Imanaka, Chair of the Executive Committee
via Blake Oshiro, Executive Director

RE: **SB2011 RELATING TO TIME SHARES. – OPPOSE**
Requires that a plan manager or board of directors keep an accurate and current list of the names, mailing addresses, and electronic mail addresses of board members and time share owners association members. Requires the list of board members and association members to be made available to owners under certain terms and for reasonable costs.

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

The American Resort Development Association – Hawaii (ARDA-Hawaii) is the trade association representing the vacation ownership and resort development industries (timeshares) here in Hawaii. Thank you for the opportunity to testify on SB2011.

ARDA Hawaii opposes SB2011 and strongly objects to the providing of owner lists and their contact information as we are concerned about the following:

1. Owner Privacy- our owners seek and purchase their interests to have a vacation experience and this provision would allow for the potential of being inundated solicitations from various aggrieved parties. More importantly, timeshares are required under federal law to tell owners about its privacy policies and because of that, have obligations to share their information on a very limited basis.
2. Consumer Protection from Fraud– owner information is highly desirable to timeshare relief companies and others who would like to market to timeshare owners. There have been numerous attorney general investigations in other jurisdictions, and even FBI investigations where these companies have stolen owners' lists and then solicited owners. There is a certain pattern for these types of fraudulent scams. The companies misrepresent themselves as being connected to the developer in an attempt to get the owners to share credit card and other personal information, or they make inaccurate and misleading attacks on the developer/industry and prompt the owner to pay them money to "get them out of their contract". In addition, significant resources are spent ensuring our systems don't get hacked to protect our owner's personal information. This bill would allow any person to buy a week's worth of interest on the resale market, and then as an owner, demand access to the database of owners, which could then be sold and used in the manner described above.

3. This approach in the bill is carries significant risk when there are other readily available effective methods that are already being used. Other jurisdictions, like Florida, have the board of directors mail board related information/solicitations to the owner base; not handing the list over to owners. Alternatively, some properties have set up a message board where the owners could interact with each other without having to give up personal data.
4. Finally, while there appear to be a handful owners, at a single development, concerned with a single board, this bill will affect the entire industry. We believe that there are more effective and reasonable approaches that can be taken outside of legislation to at least give an opportunity to air, even if not resolve, the concerns.

Thank you for the opportunity to testify.



Imanaka Asato
A LIMITED LIABILITY LAW COMPANY

February 19, 2020

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Members of the Committee on Commerce,
Consumer Protection and Health
Thirtieth Legislature
Regular Session of 2020

RE: SB 2011 – Relating to Time Shares
Hearing date: February 20, 2020 at 9:00 am

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

Thank you for allowing me to submit testimony on behalf of Soleil Management Hawaii, LLC (“Soleil”) in **OPPOSITION** of SB 2011 - Relating to Time Shares. Soleil is a condominium association and vacation ownership resort management company providing a full spectrum of management services to customers in Hawaii. Soleil has 17 properties throughout Hawaii and has been doing business in the state for 18 years.

SB 2011 seeks to, among other things, require timeshare associations to maintain a list of all association members and vendors, including mailing and e-mail addresses. SB 2011 also requires the association to disseminate the lists, including confidential information, upon request of an association member, notwithstanding any association rules or documents which preclude dissemination of a member’s information.

Currently, HAR § 16-106.12(g) provides all owners of residential units dedicated to a timeshare plan (“Timeshare Unit Owners”), with a mechanism for soliciting proxies/votes and sharing information regarding timeshare association matters.

More importantly, the confidential information provided to timeshare associations is not disseminated for good reason. Time share unit owners have a high expectation that their personal information will be kept private, which expectation would be compromised if membership lists were made available. Unlike condominium owners, time share units are occupied as vacation units where owners generally only spend one or two weeks per year and owners have less interest in the day to day management of the property and higher interest in protecting their information.

Additionally, these lists are considered very valuable property to resale scam companies. Unscrupulous “timeshare exit firms” have flourished in the past decade and are aggressively seeking new ways to focus their extensive marketing efforts on time share owners, including obtaining member lists contemplated by SB 2011 by any means necessary. For example, one

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only need review the news alerts posted and available at <https://responsibleexit.com/news-and-alerts/>, which chronicle the extreme lengths that some timeshare exit firms have taken to perpetrate a fraud on timeshare owners and timeshare associations (See news alerts about court decisions involving Reed Hein aka Timeshare Exit Team, attorney Mitchel Reed Sussman, and the Missouri BBB warning to all consumers about the timeshare exit business).

Lastly, once the information is obtained by timeshare exit firms, which is extremely likely to happen despite any statutory protections, owners will be forced to endure and suffer the ramifications of never-ending scams utilizing the very membership lists that SB 2011 seeks to make available. Associations may also be subject to increased liability for exposing member's personal information when membership lists are obtained by timeshare exit forms and/or identity thieves.

For these reasons, Soleil opposes SB 2011.

Sincerely,

IMANAKA ASATO LLLC



Michael L. Iosua, on behalf of
Soleil Management Hawaii, LLC