



GOV. MSG. NO. 1279

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 3, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

✓ The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 3, 2023, the following bill was signed into law:

HB11 HD2 SD1 CD1

RELATING TO TIME SHARING PLANS.
ACT 176

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO TIME SHARING PLANS.

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

1 SECTION 1. Section 514E-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

5 (1) The name and address of the developer and of the time
6 share units;

7 (2) The name and address of the plan manager, if any, and
8 a description of the plan manager's responsibilities
9 and authority;

10 (3) A description of the time share units, including the
11 developer's schedule for completion of all buildings,
12 units, and amenities and dates of availability;

13 (4) If the time share plan is located in a condominium
14 property regime, a description of the project and, if
15 the purchaser will own an undivided interest in a fee
16 simple or leasehold condominium unit in the



- 1 condominium project, a brief description of any
2 pertinent provisions of the project instruments;
- 3 (5) Any restraints on the transfer of the buyer's time
4 share interest in the time share units or plan;
- 5 (6) Whether the time share plan is a time share ownership
6 plan or a time share use plan, along with a
7 description of the rights and responsibilities under
8 said plan;
- 9 (7) A statement that there is a seven-calendar-day period
10 of mutual rescission;
- 11 (8) A statement that pursuant to section 514E-11.3, every
12 sale or transfer, made in violation of this chapter is
13 voidable at the election of the purchaser;
- 14 (9) Notice of any material liens, title defects, or
15 encumbrances on or affecting the title to the units or
16 plan[+] and any other lien, title defect, or
17 encumbrance impacting a purchaser's utilization of the
18 property, as the director may require. For all other
19 liens, title defects, and encumbrances, in lieu of
20 listing these in the disclosure statement, a reference
21 may be made to a website by way of link or otherwise,



- 1 wherein these items may be listed and thereby
2 disclosed, and be available for review along with a
3 statement that the developer has determined that these
4 liens, title defects, and encumbrances are not
5 expected to directly, substantially, and adversely
6 impact utilization of the property by a purchaser;
- 7 (10) Notice of any pending or anticipated suits that are
8 material to the time share units or plan, of which the
9 developer has, or should have, knowledge;
- 10 (11) The total financial obligation of the purchaser, which
11 shall consist of:
- 12 (A) A statement that the purchaser is obligated to
13 pay the initial price stated in the purchaser's
14 purchase agreement; and
- 15 (B) A list or description of any additional charges
16 to which the purchaser may be subject;
- 17 (12) An estimate of the dues, maintenance fees, real
18 property taxes, and similar periodic expenses, and the
19 method or formula by which they are derived and
20 apportioned;



1 (13) The disclosure statement under subsection (d), if
2 applicable; [and]

3 (14) A list of the primary plan documents.

4 For purposes of this paragraph:

5 "Primary plan documents" means the constituent
6 documents of the time share plan, including any time
7 share declaration; any trust agreement; the articles
8 of incorporation and bylaws of the association, if the
9 association is a corporation, or the operating
10 agreement or similar organizational document, if the
11 association is a limited liability company or other
12 entity; the rules for reserving the use of the time
13 share units; and the rules and regulations governing
14 the occupancy of the time share units. "Primary plan
15 documents" does not include supplementary plan
16 documents.

17 "Supplementary plan documents" means any
18 declaration of annexation, active property
19 declaration, notice of access, notice of conveyance,
20 notice of activation, deed conveying property to the
21 trustee of a time share plan or to the association,



1 and other instruments submitting or committing
2 property to the time share plan or removing property
3 from the time share plan. To the extent that any
4 documents modify the terms and provisions of the time
5 share plan as established in the existing primary plan
6 documents, for example, by establishing a new class or
7 category of time share interest having rights that
8 differ from existing time share interests in the time
9 share plan, the documents shall constitute primary
10 plan documents and shall not constitute supplementary
11 plan documents; and

12 ~~[-(14)]~~ (15) Other disclosures required by the director, as
13 provided by rules adopted pursuant to chapter 91."

14 SECTION 2. Section 514E-10.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§514E-10.5 Consultant review of developer filing.** The
17 director may contract with private consultants in connection
18 with the review of the filing required of time share developers
19 pursuant to section 514E-10(a) and ~~[(+)]~~ (e) ~~[(+)]~~. The cost of
20 contracting private consultants shall be borne by the developer;
21 provided that the consultant review required under this section



1 shall not affect the scope of the review under section 514E-27
2 that the director may request for filings that encompass
3 alternative arrangements for purchaser protection. The
4 consultant shall be asked to thoroughly review the filing for
5 the purpose of examining its compliance with the requirements of
6 this chapter and any rule adopted by the director, including the
7 documentation and other provided materials[-]; provided that in
8 lieu of reviewing copies of all encumbrances on title, the
9 consultant shall accept a certification from the developer that
10 the developer has reviewed all encumbrances on title and has
11 determined that the time share interest being sold is free and
12 clear of blanket liens or other material encumbrances that may
13 directly, substantially, and adversely impact utilization of the
14 property by a purchaser, or if that is not the case, identifying
15 the blanket liens or other material encumbrances and either
16 specifying how those encumbrances will be addressed or what the
17 impact of the encumbrances may be to the purchaser. Upon
18 completing the review, the consultant shall provide a written
19 analysis of the filing and an opinion of the nature and extent
20 to which it complies with this chapter and adopted rules. The
21 director may adopt rules pursuant to chapter 91 to further



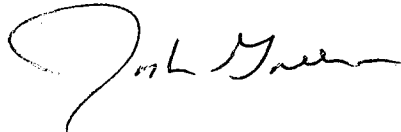
1 delineate the duties of the consultant in undertaking the review
2 and analysis required pursuant to this section."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

APPROVED this 3rd day of July , 2023



GOVERNOR OF THE STATE OF HAWAII



HB No. 11, HD 2, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives

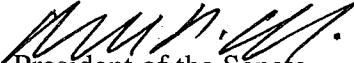


Brian L. Takeshita
Chief Clerk
House of Representatives


THE SENATE OF THE STATE OF HAWAI‘I

Date: May 2, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.



President of the Senate



Clerk of the Senate