

JAN 20 2023

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 the Hawaii Time
2 Share Act, codified as chapter 514E, Hawaii Revised Statutes,
3 was adopted by the legislature in 1980. At the time, there was
4 considerable concern over where in the State time sharing should
5 be permitted. In particular, there was concern over whether the
6 introduction of time sharing in residential areas such as Hawaii
7 Kai or Kailua was disruptive to the residential character of
8 such neighborhoods.

9 The legislature further finds that to address this concern,
10 the 1980 Hawaii Time Share Act required that the counties amend
11 their zoning ordinances to designate areas appropriate for time
12 sharing and transient vacation rentals, pursuant to section
13 514E-4, Hawaii Revised Statutes. The 1980 Hawaii Time Share Act
14 also prohibited time sharing and transient vacation rentals in
15 areas not zoned for time sharing, pursuant to section 514E-5,
16 Hawaii Revised Statutes.



1 The legislature additionally finds that to enforce the
2 zoning requirements for time sharing and transient vacation
3 rentals, the regulations adopted by the department of commerce
4 and consumer affairs require that developers submit a written
5 confirmation of county zoning form. This form must be signed by
6 the county where the time share units are located and is
7 intended to confirm that the time share plan meets the zoning
8 limitations outlined in section 514E-5, Hawaii Revised Statutes.

9 The legislature notes that since sections 514E-4 and
10 514E-5, Hawaii Revised Statutes, were intended to address only
11 the zoning of Hawaii property, section 514E-30, Hawaii Revised
12 Statutes, provides that those sections do not apply to
13 non-Hawaii property. The 1980 Hawaii Time Share Act does not
14 attempt to impose or enforce the zoning requirements applicable
15 to out-of-state time share units, nor does that Act require that
16 developers submit evidence that out-of-state time share units
17 comply with the zoning laws where the time share units are
18 located.

19 The purpose of this Act is to clarify that, for out-of-
20 state time share units, a developer is responsible for ensuring
21 that the use of units for time sharing purposes complies with



1 the zoning and land use laws and rules of the jurisdiction where
2 the time share units are located and that it is not necessary
3 for the developer to submit evidence of such compliance as part
4 of the registration process.

5 SECTION 2. Section 514E-10, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§514E-10 Registration required; developer, acquisition**
8 **agent, plan manager, and exchange agent; registration renewal.**

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

18 (b) An acquisition agent (including the developer if it is
19 also the acquisition agent) shall register under this chapter by
20 filing with the director a statement setting forth the time
21 sharing plan for which it is providing prospective purchasers,



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

19 (c) A plan manager (including the developer if it is also
20 the plan manager) shall register under this chapter by filing
21 with the director a statement setting forth the time sharing



1 plan that it is managing, its principal office address,
2 telephone number, and responsible managing employee. The plan
3 manager shall furnish evidence that the plan manager is bonded
4 as required by rules adopted by the director pursuant to chapter
5 91 to cover any default of the plan manager and any of its
6 employees of their duties and responsibilities; provided that
7 the plan manager shall be separately bonded for each time share
8 plan under the management of the plan manager.

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

15 (e) Any plan manager or developer registration required in
16 this section shall be renewed by December 31 of each even-
17 numbered year, and any acquisition agent or exchange agent
18 registration required in this section shall be renewed on
19 December 31 of each odd-numbered year; provided that this
20 subsection shall not relieve the person required to register
21 from the obligation to notify the director promptly of any



1 material change in any information submitted to the director,
2 nor shall it relieve the developer of its obligation to promptly
3 file amendments or supplements to the disclosure statement, and
4 to promptly supply the amendments or supplements to purchasers
5 of time share interests.

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

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

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

14 (A) The time share units in the time share plan
15 registered pursuant to this chapter; the total
16 number of time share interests registered for
17 sale in each unit pursuant to this chapter; and
18 the total number of time share interests that
19 have not yet been sold as of the date specified
20 in the developer's certification, which date



1 shall not be more than sixty days prior to the
2 date of the developer's certification; or
3 (B) The property in the time share plan registered
4 pursuant to this chapter; the total number of
5 points registered for sale in each property
6 pursuant to this chapter; and the total number of
7 points in the time share plan that have not yet
8 been sold as of the date specified in the
9 developer's certification, which date shall not
10 be more than sixty days prior to the date of the
11 developer's certification;

12 (3) If the developer is a corporation, partnership, joint
13 venture, limited liability company, or limited
14 liability partnership, an original certificate of good
15 standing issued by the business registration division
16 of the department of commerce and consumer affairs not
17 more than forty-five days before the date of
18 submission of the renewal application; and

19 (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) A developer shall be responsible for ensuring that the
10 use for time sharing purposes of out-of-state time share units
11 in a time share plan is in compliance with the zoning and land
12 use laws and regulations of the jurisdiction where the time
13 share units are located. The developer shall not be required,
14 as part of the developer registration, to submit evidence that
15 the use of out-of-state time share units in the time share plan
16 is in compliance with the zoning and land use laws and
17 regulations of the jurisdiction where the time share units are
18 located."

19 SECTION 3. New statutory material is underscored.

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

21



S.B. NO. 798

INTRODUCED BY:

Lynn DeLoite



S.B. NO. 798

Report Title:

Time Sharing; Time Share; Out-of-state Time Share Units; Zoning Requirements

Description:

Clarifies that a developer is responsible for ensuring that the use of out-of-state time share units for time sharing purposes complies with zoning and land use laws and rules of the jurisdiction where the time share units are located but is not required to submit evidence of such compliance to register in Hawaii.

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

