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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Tourism
Tuesday, March 14, 2023
10:00 a.m.
Conference Room 423 and Videoconference**

**On the following measure:
S.B. 799, S.D.1, RELATING TO TIME SHARING PLANS**

Chair Quinlan 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 offers comments on this bill.

S.B. 799 is the companion bill to H.B. 13, which your Committee has heard previously. The purposes of this bill are to not require additional title reports to be submitted when, for the time share plans that use: (1) title-holding trusts to protect buyers from future blanket liens, the developer has already submitted a title report evidencing that the title is vested in the trustee; (2) a notice of time share plan to protect buyers from future blanket liens, the developer has already submitted a title report showing that the notice of time share plan has been recorded on title to the time share property; and (3) recorded documents as part of alternative arrangements intended to protect buyers from future blanket liens, the developer has already submitted a title

report showing the recordation of all documents require to be recorded as part of the alternative arrangements.

The Department agrees that another title report should not be required for the purpose of showing protections against future blanket liens if a title report showing this has already been submitted. However, there may be other reasons the Department needs to see an updated title report. This bill appears to prohibit the Department from asking for another title report for any reason, not just to show protection against future blanket liens.

The Department has been working with American Resort Development Association on this measure and will continue to work with them to address the above concerns.

Thank you for the opportunity to testify on this bill.



March 13, 2023

Rep. Sean Quinlan, Chair
Rep. Natalia Hussey-Burdick, Vice Chair
Members of the House Committee on Tourism
Thirty-Second State Legislature
Regular Session of 2023

RE: Senate Bill 799, SD1 – Relating to Time Sharing Plans
Hearing date: March 14, 2023 at 10:00 am

Aloha Chair Quinlan, Vice-Chair Hussey-Burdick and Members of the Committee,

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation (“MVWC”) in **STRONG SUPPORT** of SB 799, SD1 – Relating to Time Sharing Plans. MVWC is a global leader in the timeshare industry, with five resort properties in Hawaii. Timeshare is an important and stabilizing part of the tourism industry, and resort development and operations provide thousands of jobs in the islands year after year.

Currently under HRS §514E-19, the sale of a time share interest may only close if buyers are protected against blanket liens such as a mortgage. MVWC’s time share programs are structured as a title-holding land trusts. Most trust structures, including MVWC’s, convey title to the timeshare inventory to a trustee who holds title for the benefit of the owners’ association and its members or its timeshare owners. The terms of the trust instruments preclude the imposition of any blanket liens on the time share inventory once submitted to the time share trustee. Significantly, any liens or other matters of title would be subordinate to the interests of the owners. Accordingly, once property is put into the trust, there is no need for title evidence thereafter to confirm that the property in the trust is free from blanket liens.

Under the current version of HRS §514E, subsequent title reports for inventory are required each time a registration is renewed. However, because the title report evidences that the property has been conveyed to the trust, further evidence of conveyance is not needed. SB 799 would help to streamline future registrations and avoid duplicative paperwork by eliminating the need to continue to provide additional title reports, once the time share property has been conveyed into the title-holding trust. This bill is important in that it modernizes the provisions of 514E-19 to reflect the evolution of timeshare plans. We strongly urge you to support SB 799, SD1.

Mahalo for your consideration,

Robin Suarez
Senior Vice President & Associate General Counsel
Marriott Vacations Worldwide Corporation



CHARLES E. PEAR, JR., P.A.
ATTORNEY

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March 13, 2023

Representative Sean Quinlan, Chair
Representative Natalia Hussey-Burdick, Vice Chair
House Committee on Tourism

Re: SB799, S.D.1 – Relating to Time Sharing Plans
Hearing on March 14, 2023, at 10:00 AM
Conference Room 423

Dear Chair, Vice-Chair, and Members of the Committee:

My name is Charles Pear. I am testifying as legislative counsel for ARDA Hawaii.

ARDA Hawaii supports the bill.

ARDA and the DCCA are currently working on revisions to the language of this bill. We respectfully request that the Committee pass the bill.

Section 16-106-4(a)(4), HAR, requires that a developer application for registration must include a title report or policy on each unit to be registered. Section 16-106-4.1(a)(5), HAR, imposes the same requirement for units to be annexed. In both cases:

- The title report must show the status of ownership of the unit and all liens and encumbrances affecting the unit.
- The title report must not be more than 60 days old at the time of submission.

Neither the Act nor the Rules require that the developer submit any further title reports after the initial report.

The Time Share Act requires that the rights of time share owners be protected from blanket liens. “Blanket liens” are things like mortgages and so on, that could be used to deprive the time share owners of the use of the time share units. For example, foreclosure of a mortgage could cause the time share owners to lose their occupancy rights.

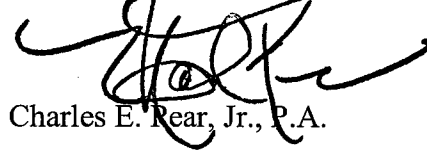
Chair, Vice-Chair, and Members of the
Committee on Tourism
March 13, 2023
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Frequently, the developer must record certain legal documents on title to the time share units to put the blanket lien protections in place. However, these documents may not have been recorded when the initial title report was prepared. Neither the Time Share Act nor the Time Share Rules require that the developer furnish an updated title report after these documents have been recorded.

This bill requires that the developer furnish an updated title search showing that the blanket lien protections are fully in place. After the developer has submitted such a title report, however, there is no need to submit additional title reports on such property since the rights of the purchasers to use the property are now fully protected. This bill prohibits the DCCA from requesting such additional title reports.

Very truly yours,

McCORRISTON MILLER MUKAI MacKINNON LLP

A handwritten signature in black ink, appearing to read "Charles E. Rear, Jr.", is written over the typed name below.

Charles E. Rear, Jr., P.A.

CEP:kn



March 13, 2023

TO: Chair Quinlan
Vice-Chair Hussey-Burdick
Members of the House Committee on
Tourism

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: SB799 SD1 – RELATING TO TIME SHARING PLAN

Hearing date: March 14, 2023, at 10:00 AM

Aloha Chair Quinlan, Vice Chair Hussey-Burdick and members of the House Committee on Tourism.

ARDA-Hawaii is the local chapter of the trade association for the timeshare industry. There are currently 98 resorts and more than 15,000 timeshare units throughout Hawaii. ARDA-Hawaii hereby submits testimony in **STRONG SUPPORT of SB799 SD1- RELATING TO TIME SHARING PLAN.**

The timeshare industry in Hawaii enjoys **high occupancy levels (90+ percent) during good times and bad**, with visitors staying for an average of 9 days in length every visit. Further, the timeshare industry employs **5,000+ hard working local employees in Hawaii** and is a major economic driver contributing **\$55 million in state and county taxes**. Timeshare is an important and stabilizing part of the tourism industry and Hawaii's economy, supporting economic development and job creation throughout the state. Timeshare owners have made a long-term commitment to our state and are consistent and dependable visitors who bring substantial tax dollars to Hawaii and who continue to visit Hawaii even during periods of economic downturn.

SB799 SD1 seeks to streamline the review of timeshare registration filings while continuing to maintain high levels of consumer protection.

Currently, the sale of a time share interest may only close if the buyers are protected from the foreclosure of blanket liens (for example, mortgages) that could result in the loss of a timeshare interest owned by a buyer. This includes both existing blanket liens as well as blanket liens that may arise in the future. An escrow for the sale of a timeshare interest may only close if buyers are protected from blanket liens. (See HRS Section 514E-19.)

Recently, the time share industry has seen widespread adoption of title-holding trusts, particularly by several large companies. Under these trusts, a trustee holds the title to the time

share property for the benefit of the owners and is obligated to operate in their best interests. The developer is also a beneficiary as to any unsold time share interests. These trusts are intended to protect the rights of the time share buyer to use the time share unit from blanket liens that may arise in the future.

When registering a time share plan, the developer must submit a title report or title policy showing that title has been conveyed to the trustee. If it does not, then prior to acceptance of the registration by the DCCA, the developer must submit an updated title report evidencing that title is held by the trustee. **Subsequently, title report updates currently being required by the DCCA are unnecessary since blanket lien protections will be fully in place upon the initial registration of the time share project.** Accordingly, SB799 SD1 provides clarity with regard to title report requirements, helps to expedite the review of filings, and, if enacted, will serve to avoid unnecessary filings and delay.

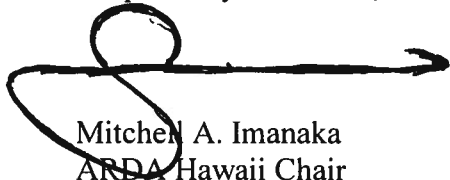
Further, SB799 SD1 seeks to eliminate unnecessary subsequent title updates for time share plans that use a notice of time share plan to protect purchasers. In such cases, an initial title report showing that the notice of time share plan has been recorded should be submitted. If it has not been submitted, then the developer must file an updated title report showing the notice. **Thereafter, subsequent title reports are unnecessary since, by law (See HRS Section 514E-21), the filing of the notice of time share plan protects buyers from future blanket liens.** Accordingly, SB799 SD1 seeks to reduce unnecessary title report updates, and will serve to reduce delays in the review of time share filings.

Finally, under this bill, the developer must submit a title report reflecting the recordation of all documents required to protect the buyers' rights to use the time share property. If it has not been submitted, the developer must file an updated title report showing such recordation. **Thereafter, subsequent updates to title reports are not necessary, as buyers are already protected against blanket liens.** Again, we support an amendment of this type to help expedite reviews and eliminate unnecessary filings.

ARDA Hawaii stands in strong support of this measure, as it seeks to resolve ongoing review delays while maintaining high levels of protection for consumers. Removal of duplicative and unnecessary reports will hopefully *achieve both greater review efficiency for time share projects while maintaining proper disclosures for buyers.* We look forward to working with the Legislature to address the issues this measure seeks to resolve.

Thank you for your consideration.

Respectfully submitted,



Mitchel A. Imanaka
ARDA Hawaii Chair



March 13, 2023

TO: Chair Quinlan
Vice Chair Hussey-Burdick
Members of the Senate Committee on Tourism
Thirty-Second State Legislature
Regular Session of 2023

RE: Senate Bill 799, SD1 - RELATING TO TIME SHARING PLANS
Hearing date: March 14, 2023 at 10 a.m.

Aloha Chair Quinlan, Vice Chair Hussey-Burdick and members of the Committee on Tourism,

Hilton Grand Vacations (HGV) is a leading global timeshare company with a presence across the state of Hawaii. We've invested in local communities and committed ourselves to make a positive impact where our team members and timeshare owners live and work, including Hawaii Island, Oahu, Kauai and Maui. We're writing to share testimony in **strong support of SB799, SD1 – Relating to Time Sharing Plans.**

The bill, which proposes streamlining the review of timeshare registration filings while maintaining high levels of consumer protection, is a win-win opportunity for developers and owners. If enacted, SB799, SD1 would clarify title report requirements, help to expedite the review of filings and avoid unnecessary filings and delays. Further, this measure will not decrease substantive consumer protection for buyers.

Currently, it takes 12 to 15 months for new timeshare registration filings and six to nine months for amendments to existing filings to be approved in Hawaii. In other states, similar filings are approved in just three to six months. Due to the delays that occur and limited resources, we are not able to submit all of the filings that we would otherwise pursue, and as a result, business and the industry suffer.

Timeshare cultivates the type of tourism Hawaii wants to realize. The passage of SB799, SD1 would support our industry and the benefits it brings, including the employment of more than 5,000 hard-working individuals – 1,700 of which are HGV team members – and the contribution of \$55 million in state and county tax revenue. Our work also allows us to bring added benefit to the community through HGV Serves, our CSR platform, which is driven by key efforts to support and elevate our society. Throughout the islands, we've been able to support efforts surrounding sustainability, homelessness, youth development, disaster relief and veterans.

For all these reasons, Hilton Grand Vacations strongly supports SB799, SD1 as it seeks to improve the registration filing process in a way that protects owners, enhances the industry and improves the state of Hawaii. We look forward to continuing to work with you on this issue.

Mahalo Nui Loa,

Thomas Goodman
Vice President, Legal
Hilton Grand Vacations