

A Bill for an Act Relating to Time Sharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514E-11, Hawaii Revised Statutes, is amended to read as follows:

“§514E-11 **Prohibited practices.** It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements, or make any offer thereof, without fully disclosing that the device is

being used or offered for the purpose of soliciting sales of time share units or interests;

- (3) Offer a prospective purchaser a prize or gift, in writing, as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend a sales presentation unless written disclosure is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type and contains all of the following:
- (A) A full description of the exact prize or gift won by the prospective purchaser including its cash value;
 - (B) All terms and conditions attached to the prize or gift;
 - (C) A statement that the consumer must attend a sales presentation; and
 - (D) An identification of the time share project to be offered for sale including type of ownership, exchange privileges, limitations, and price ranges of the time share interests in that project;
- [(3)] (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- [(4)] (5) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- [(5)] (6) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- [(6)] (7) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit; or
- [(7)] (8) Make a sales presentation to a prospective purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument.”

SECTION 2. Section 514E-11.1, Hawaii Revised Statutes, is amended to read as follows:

“[[]§514E-11.1[]] **Deceptive trade practices.** It shall constitute an unfair or deceptive practice, within the meaning of chapter 480, for any developer, acquisition agent, or sales agent of time share units or plans to:

- (1) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements

without fully disclosing that the device is being used for the purpose of soliciting sales of time share interests;

- (2) Offer a prospective purchaser a prize or gift, in writing, as part of any time share advertising or sales promotion plan, if in order to claim the prize or gift, the prospective purchaser must attend a sales presentation unless the written disclosure described in section 514E-11(3) is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type;
- [(2)] (3) Fail to inform each purchaser orally and in writing, at the time he signs the contract of his five-day right to cancel or void the contract to purchase a time share interest in a time share plan or unit;
- [(3)] (4) Misrepresent in any manner the purchaser's right to cancel or void any contract to purchase a time share interest in a time share plan or unit;
- [(4)] (5) Include in any contract or document provisions purporting to waive any right or benefit to which the purchaser is entitled under this chapter;
- [(5)] (6) Fail or refuse to honor any valid notice of cancellation of the contract by the purchaser, and within fifteen business days after receipt of such notice, fail or refuse to refund all payments made under the contract or sale; or fail or refuse to cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any appropriate action to terminate promptly any mortgage, lien, or other security interest created in connection with the transaction;
- [(6)] (7) Fail to include on promotional literature and other printed or written material the caption "THIS IS A TIME SHARING SALES PRESENTATION" (in capital letters of 24-point bold type, or type as large as the largest printing or writing elsewhere in the material), under which must be printed (in type of the same size as the caption described above) the following: "Any purchaser has, under the law, a five-day right of rescission of any time sharing sales contract";
- [(7)] (8) Misrepresent the amount of time or period of time the time share unit will be available to any purchaser;
- [(8)] (9) Misrepresent or deceptively represent the location or locations of the offered time share unit;
- [(9)] (10) Misrepresent the size, nature, extent, qualities, or characteristics of the offered time share units;

- [(10)] (11) Misrepresent the nature or extent of any services incident to the time share unit;
- [(11)] (12) Misrepresent the conditions under which a purchaser may exchange his occupancy rights to a time share unit in one location for occupancy rights to a time share unit in another location; or
- [(12)] (13) Fail to orally disclose during the initial oral contact with a prospective purchaser that any promised entertainment, prizes, gifts, food and drink, games, or other inducements are being offered for the purpose of soliciting sales of time share interests in time share units or plans.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 26, 1984.)