

A Bill for an Act Relating to Time Shares.

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

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

- “(a) Any offering of a time sharing plan to the public shall disclose:
- (1) The name and address of the developer and of the time share units;
 - (2) The name and address of the plan manager, if any, and a description of the plan manager’s responsibilities and authority;
 - (3) A description of the time share units, including the developer’s schedule for completion of all buildings, units, and amenities and dates of availability;
 - (4) If the time share plan is located in a condominium property regime, a description of the project and any pertinent provisions of the project instruments;
 - (5) Any restraints on the transfer of the buyer’s time share interest in the time share units or plan;
 - (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
 - (7) A statement that there is a seven-calendar-day period of mutual rescission;
 - (8) A statement that pursuant to section 514E-11.3, every sale or transfer, made in violation of this chapter is voidable at the election of the purchaser;
 - (9) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
 - (10) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
 - (11) The total financial obligation of the purchaser, which shall ~~include~~ consist of:
 - (A) A statement that the purchaser is obligated to pay the initial price stated in the purchaser’s purchase agreement; and
 - (B) A list or description of any additional charges to which the purchaser may be subject;
 - (12) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; and
 - (13) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91.”

SECTION 2. 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, transportation, luaus,

ocean recreational activities, land recreational activities, aerial recreational activities, or tours, or other inducements, or make any offer thereof, without fully disclosing orally and as provided in paragraph (3) 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 as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend and complete 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 material terms and conditions attached to the prize or gift;
 - (C) A statement that the consumer must attend and complete a sales presentation; and
 - (D) An identification of the time share project to be offered for sale, including type of ownership and price ranges of the time share interests in that project;
- (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- (5) Make any representation that a time share interest is an investment, including but not limited to the value of the interest at resale;
- (6) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- (7) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- (8) 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; provided that this paragraph shall not apply to sums paid by a purchaser or prospective purchaser for a tourist activity or for any other product or service offered to induce attendance at a time share sales presentation;
- (9) Make any agreement or contract with a purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument; provided that nothing herein or in the rules adopted by the director shall require that any promotional device or instrument be delivered, furnished, or tendered to the prospective purchaser prior to making a sales presentation;
- (10) Distribute any promotional or disclosure material separately if the material was filed in a consolidated form;
- (11) Use any unregistered time share booth, or fail to display at all times a conspicuous, clear, and unobstructed sign of a permanent nature:
 - (A) That contains the words "time share" or "time sharing" in letters at least three inches tall and in a color that distinctively contrasts with the background on which the words appear;
 - (B) With minimum dimensions of nine inches by twenty-four inches, excluding any frame;

- (C) Posted on or in the booth in an upright position, perpendicular to the ground, and in a location that is easily visible to passersby; and
- (D) Consistent with such rules as the director may adopt pursuant to this chapter and consistent also with county ordinances.

No person shall post anything upon or adjacent to the sign, or include anything in the sign, which indicates that the booth is not being used for time share solicitation purposes. As used in this paragraph, "sign of a permanent nature" specifically excludes banners, grease boards, marker boards, handwritten signs, or signs constructed of temporary materials such as paper, poster board, or cardboard. The signage requirements of this paragraph shall not apply to a booth located within a project subject to a time share plan;

- (12) Misrepresent the amount of fees to be charged, including management fees, or the structure for future fee increase; or
- (13) Sell, offer for sale, or advertise for sale, by any person, partnership, firm, corporation, joint stock company, or other association engaged in marketing time share plans within the State, any tourist activity, including but not limited to land, aerial, or water recreational activities, at less than the actual cost of the activity paid for by the licensee thereof to such vendor or give, offer to give, or advertise with the intent to give away any such tourist activity with the purpose or effect of inducing the prospective purchaser to purchase a time share plan or to attend a time share marketing event.

Any violation of this section shall also constitute an unlawful or deceptive practice within the meaning of section 480-2; provided that in addition violations of section 514E-31 or of paragraph (11) shall result in a fine of not less than \$50 for each separate offense for a maximum aggregate amount of \$500."

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

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

(Approved April 23, 2013.)