

## ACT 197

S.B. NO. 798

A Bill for an Act Relating to Time Sharing.

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

SECTION 1. The legislature finds that the State's time share law was adopted by the legislature in 1980. At the time, there was considerable concern over where in the State time sharing should be permitted. In particular, there was concern over whether the introduction of time sharing in residential areas such as Hawaii Kai or Kailua would be disruptive to the residential character of those neighborhoods.

The legislature further finds that to address this concern, the 1980 time share law required that the counties amend their zoning ordinances to designate areas appropriate for time sharing and transient vacation rentals. The 1980 time share law also prohibited time sharing and transient vacation rentals in areas not zoned for time sharing.

The legislature additionally finds that to enforce the zoning requirements for time sharing and transient vacation rentals, the regulations adopted by the department of commerce and consumer affairs require that developers submit a written confirmation of county zoning form. This form must be signed by the county where the time share units are located and is intended to confirm that the time share plan meets statutory zoning limitations.

The legislature notes that the State's time share law was intended to address only the zoning of Hawaii property and not apply to non-Hawaii property. The 1980 time share law does not attempt to impose or enforce the zoning requirements applicable to out-of-state time share units, nor does the law require that developers submit evidence that out-of-state time share units comply with the zoning laws where the time share units are located.

The purpose of this Act is to clarify that, for out-of-state time share units, a developer is responsible for ensuring that the use of units for time sharing purposes complies with the zoning and land use laws and rules of the jurisdiction where the time share units are located and that it is not necessary for the developer to submit evidence of such compliance as part of the registration process.

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

**“§514E-10 Registration required; developer, acquisition agent, plan manager, and exchange agent; registration renewal.** (a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director pursuant to the time specified in this chapter, or the development is exempt from filing, and the time share plan to be offered by the developer is accepted by the director for registration under this chapter. The director shall not accept a developer's time share plan if the developer does not possess a history of honesty, truthfulness, financial integrity, and fair dealing.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall register under this chapter by filing with the director a statement setting forth the time sharing plan for which it is providing prospective purchasers, its address, the telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the acquisition agent is not a natural person, the name of the responsible managing employee; provided that an acquisition agent licensed under chapter 467 as a real estate broker shall not be required to register under this chapter. All acquisition agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any acquisition agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The acquisition agent shall furnish evidence that the acquisition agent is bonded as required by rules adopted by the director pursuant to chapter 91 to cover any violation by the acquisition agent of any solicitation ordinance or other regulation governing the use of the premise or premises in which the time share plan is promoted; provided that the acquisition agent shall be separately bonded for each time share plan for which it is providing prospective purchases.

(c) A plan manager (including the developer if it is also the plan manager) shall register under this chapter by filing with the director a statement setting forth the time sharing plan that it is managing, its principal office address, telephone number, and responsible managing employee. The plan manager shall furnish evidence that the plan manager is bonded as required by rules adopted by the director pursuant to chapter 91 to cover any default of the plan manager and any of its employees of their duties and responsibilities; provided that the plan manager shall be separately bonded for each time share plan under the management of the plan manager.

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

(e) Any plan manager or developer registration required in this section shall be renewed by December 31 of each even-numbered year, and any acquisition agent or exchange agent registration required in this section shall be renewed on December 31 of each odd-numbered year; provided that this subsection shall not relieve the person required to register from the obligation to notify the director promptly of any material change in any information submitted to the director, nor shall it relieve the developer of its obligation to promptly file amendments or supplements to the disclosure statement, and to promptly supply the amendments or supplements to purchasers of time share interests.

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

- (1) A current disclosure statement that meets the requirements of section 514E-9 and section 16-106-3, Hawaii Administrative Rules, if not already on file;
- (2) A statement that is certified by the developer to be true and correct in all respects and that identifies, as appropriate:
  - (A) The time share units in the time share plan registered pursuant to this chapter; the total number of time share interests registered for sale in each unit pursuant to this chapter; and the total number of time share interests that have not yet been sold as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification; or

- (B) The property in the time share plan registered pursuant to this chapter; the total number of points registered for sale in each property pursuant to this chapter; and the total number of points in the time share plan that have not yet been sold as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification;
- (3) If the developer is a corporation, partnership, joint venture, limited liability company, or limited liability partnership, an original certificate of good standing issued by the business registration division of the department of commerce and consumer affairs not more than forty-five days before the date of submission of the renewal application; and
- (4) The biennial renewal fee.
- (g) Developers shall not be required to include the following in an application for renewal of a developer registration of a time share plan:
  - (1) A financial statement of the developer; or
  - (2) A policy of title insurance, a preliminary title report, abstract of title, or certificate of title on the units or time share interests in the time share plan.
- (h) A developer's application for registration or annexation shall include:
  - (1) A list of the projects containing the time share units that are included in the application and that are located outside the State; and
  - (2) A statement by the developer that it has verified that the use of each of those out-of-state time share units for time sharing purposes in the manner contemplated by the developer's time share plan is either in compliance with or not prohibited by the zoning and land use laws and regulations of the jurisdiction where the time share units are located.

The developer shall not be required, as part of the developer registration, to submit any other evidence that the use of out-of-state time share units for time sharing purposes in the developer's time share plan is either in compliance with or not prohibited by the zoning and land use laws and regulations of the jurisdiction where the time share units are located."

SECTION 3. New statutory material is underscored.

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

(Approved July 3, 2023.)