

JAN 20 2023

A BILL FOR AN ACT

RELATING TO TIME SHARING PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 514E-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 "Primary plan documents" means the constituent documents
5 of the time share plan, including any time share declaration;
6 any trust agreement; articles of incorporation and bylaws of the
7 association, if the association is a corporation; or the
8 operating agreement or similar organization document, if the
9 association is a limited liability company or other entity; the
10 rules for reserving the use of the time share units; and the
11 rules and regulations governing the occupancy of the time share
12 units. "Primary plan documents" does not include supplementary
13 plan documents.

14 "Supplementary plan documents" means any declaration of
15 annexation, active property declaration, notice of access,
16 notice of conveyance, notice of activation, deed conveying
17 property to the trustee of a time share plan or to the time



1 share owners association, or other instruments submitting or
2 committing property to the time share plan or removing property
3 from the time share plan. To the extent that any such documents
4 modify the terms and provisions of the time share plan as
5 established in the existing primary plan documents, including
6 but not limited to documents that establish a new class or
7 category of time share interest that has rights that differ from
8 existing time share interests in the time share plan, the
9 documents constitute primary plan documents and shall not
10 constitute supplementary plan documents."

11 SECTION 2. Section 514E-9, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Any offering of a time sharing plan to the public
14 shall disclose:

- 15 (1) The name and address of the developer and of the time
16 share units;
- 17 (2) The name and address of the plan manager, if any, and
18 a description of the plan manager's responsibilities
19 and authority;



- 1 (3) A description of the time share units, including the
2 developer's schedule for completion of all buildings,
3 units, and amenities and dates of availability;
- 4 (4) If the time share plan is located in a condominium
5 property regime, a description of the [~~project and~~
6 project, and, if the purchaser will own an undivided
7 interest in a fee or leasehold condominium unit, a
8 brief description of any pertinent provisions of the
9 project instruments;
- 10 (5) Any restraints on the transfer of the buyer's time
11 share interest in the time share units or plan;
- 12 (6) Whether the time share plan is a time share ownership
13 plan or a time share use plan, along with a
14 description of the rights and responsibilities under
15 said plan;
- 16 (7) A statement that there is a seven-calendar-day period
17 of mutual rescission;
- 18 (8) A statement that pursuant to section 514E-11.3, every
19 sale or transfer, made in violation of this chapter is
20 voidable at the election of the purchaser;



- 1 (9) Notice of any material liens, title defects or
2 encumbrances on or affecting the title to the units or
3 plan; provided that the primary plan documents and
4 supplementary plan documents shall be listed; and
5 provided further that the director may require
6 additional disclosures. For all other liens, title
7 defects or encumbrances, in lieu of listing these in
8 the disclosure statement, a reference may be made to a
9 website by way of a link or otherwise, where the items
10 may be listed and thereby disclosed, and made
11 available for review;
- 12 (10) Notice of any pending or anticipated suits that are
13 material to the time share units or plan, of which the
14 developer has, or should have, knowledge;
- 15 (11) The total financial obligation of the purchaser, which
16 shall consist of:
- 17 (A) A statement that the purchaser is obligated to
18 pay the initial price stated in the purchaser's
19 purchase agreement; and
- 20 (B) A list or description of any additional charges
21 to which the purchaser may be subject;



1 (12) An estimate of the dues, maintenance fees, real
2 property taxes, and similar periodic expenses, and the
3 method or formula by which they are derived and
4 apportioned;

5 (13) The disclosure statement under subsection (d), if
6 applicable; and

7 (14) Other disclosures required by the director, as
8 provided by rules adopted pursuant to chapter 91."

9 SECTION 3. Section 514E-10.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§514E-10.5 Consultant review of developer filing.** The
12 director may contract with private consultants in connection
13 with the review of the filing required of time share developers
14 pursuant to section 514E-10(a) and [†] (e) [†]. The cost of
15 contracting private consultants shall be borne by the developer;
16 provided that the consultant review required under this section
17 shall not affect the scope of the review under section 514E-27
18 that the director may request for filings that encompass
19 alternative arrangements for purchaser protection. The
20 consultant shall be asked to thoroughly review the filing for
21 the purpose of examining its compliance with the requirements of



1 this chapter and any rule adopted by the director, including the
2 documentation and other provided materials[-]; provided that in
3 lieu of review of copies of all encumbrances on title, the
4 consultant shall accept a certification from the developer that
5 the time share interest being sold is free and clear of blanket
6 liens or other material encumbrances that may materially and
7 adversely impact utilization of the property by a purchaser, or
8 if that is not the case, identifying the blanket liens or other
9 material encumbrances and either specifying how those
10 encumbrances will be addressed or what the impact of the
11 encumbrances may have on the purchaser. Upon completing the
12 review, the consultant shall provide a written analysis of the
13 filing and an opinion of the nature and extent to which it
14 complies with this chapter and adopted rules. The director may
15 adopt rules pursuant to chapter 91 to further delineate the
16 duties of the consultant in undertaking the review and analysis
17 required pursuant to this section."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: Lyn deCorte



Report Title:

Time Sharing Plans; Disclosure Statements; Encumbrances

Description:

Amends the information required to be in a time share disclosure statement, under certain circumstances. Requires developers to submit copies of supplementary plan documents of the time share plan. Allows for submission of certain documents in electronic form.

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

