
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-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

5 (1) The name and address of the developer and of the time
6 share units;

7 (2) The name and address of the plan manager, if any, and
8 a description of the plan manager's responsibilities
9 and authority;

10 (3) A list of the primary plan documents.

11 For purposes of this paragraph, "primary plan
12 documents" means the constituent documents of the time
13 share plan, including any time share declaration, any
14 trust agreement, the articles of incorporation and
15 bylaws of the association, if the association is a
16 corporation, or the operating agreement or similar
17 organizational document, if the association is a



1 limited liability company or other entity, the rules
2 for reserving the use of the time share units, and the
3 rules and regulations governing the occupancy of the
4 time share units;

5 [~~3~~] (4) A description of the time share units, including
6 the developer's schedule for completion of all
7 buildings, units, and amenities and dates of
8 availability;

9 [~~4~~] (5) If the time share plan is located in a
10 condominium property regime, a description of the
11 project and, if the purchaser will be a direct owner
12 of a unit in the condominium project, a brief
13 description of any pertinent provisions of the project
14 instruments;

15 [~~5~~] (6) Any restraints on the transfer of the buyer's
16 time share interest in the time share units or plan;

17 [~~6~~] (7) Whether the time share plan is a time share
18 ownership plan or a time share use plan, along with a
19 description of the rights and responsibilities under
20 said plan;



1 ~~[(7)]~~ (8) A statement that there is a seven-calendar-day
2 period of mutual rescission;

3 ~~[(8)]~~ (9) A statement that pursuant to section 514E-11.3,
4 every sale or transfer, made in violation of this
5 chapter is voidable at the election of the purchaser;

6 ~~[(9)]~~ (10) Notice of any material liens, title defects, or
7 encumbrances on or affecting the title to the units or
8 plan[+] and any other lien, title defect, or
9 encumbrance impacting a purchaser's utilization of the
10 property, as the director may require. For all other
11 liens, title defects, and encumbrances, in lieu of
12 listing these in the disclosure statement, a reference
13 may be made to a website by way of link or otherwise,
14 wherein the items may be listed and thereby disclosed,
15 and be available for review along with a statement
16 that the developer has determined that these liens,
17 title defects, and encumbrances are not expected to
18 directly, substantially, and adversely impact
19 utilization of the property by a purchaser;



1 "(a) Notwithstanding any other provision of this chapter,
2 the director may issue a limited permit to a developer
3 permitting the offer or sale, in this State, of an additional
4 interest in a time share plan to an existing purchaser in the
5 same time share plan; provided that:

- 6 (1) The developer or an affiliated entity of the developer
7 has a time share plan currently registered with the
8 director; provided that the registration was
9 originally approved or amended within seven years from
10 the date of the offer or disposition, and the
11 registration has not been terminated or withdrawn;
- 12 (2) The developer has not, during the two-year period
13 preceding the time of the offer, had a time share
14 registration suspended, restricted, or revoked in any
15 state or been convicted of an offense involving fraud
16 or dishonesty. In the event the developer satisfies
17 the requirement of paragraph (1) above through an
18 affiliated entity, the developer has not, during the
19 twenty-year period preceding the time of the offer,
20 had a time share registration suspended, restricted,



- 1 or revoked in any state or been convicted of an
2 offense involving fraud or dishonesty;
- 3 (3) In satisfaction of the disclosure requirements of
4 section 514E-9, the purchaser is provided the time
5 share disclosure documents the purchaser would have
6 received if the purchase had occurred in the state or
7 jurisdiction where the purchaser initially purchased
8 the time share interest;
- 9 (4) The contract for purchase signed by the purchaser
10 includes a notice that is the same as or similar to
11 the rescission notice required pursuant to section
12 [~~514E-9(a)(7);~~] 514E-9(a)(8); provided that the
13 rescission period shall be at least seven days;
- 14 (5) All funds and any negotiable instruments received
15 during the seven-day rescission period shall be placed
16 in an escrow account in the State. The escrow agent
17 shall be a bank, savings and loan association, or
18 trust company authorized to do business in the State
19 under an escrow arrangement or a corporation licensed
20 as an escrow depository under chapter 449. The funds
21 or negotiable instruments may be released from escrow;



1 provided that the release is in accordance with
2 section 514E-17 or 514E-18. Any escrow account
3 established for any out-of-state time share plan
4 offered under this subsection may be maintained in the
5 state where the time share plan is located after the
6 seven-day rescission period has expired; provided that
7 the escrow agent submits to personal jurisdiction in
8 this State;

9 (6) The contract for purchase shall contain the following
10 statement in conspicuous type:

11 "THIS TIME SHARE PLAN HAS NOT BEEN REVIEWED OR
12 APPROVED BY THE STATE OF HAWAII BECAUSE YOU ALREADY
13 OWN AN INTEREST IN THIS TIME SHARE PLAN AND
14 BECAUSE _____ (DEVELOPER OR
15 AFFILIATE'S NAME) HAS A TIME SHARE PLAN CURRENTLY
16 REGISTERED WITH THE STATE OF HAWAII (INCLUDE
17 REGISTRATION #). (IF APPLICABLE) (AFFILIATE) IS AN
18 AFFILIATED ENTITY OF THE SELLER AS THE TERM IS DEFINED
19 IN CHAPTER 514E, HAWAII REVISED STATUTES."; and



1 (7) The offer complies with the provisions of sections
2 514E-11(2) to 514E-11(9), 514E-11(11) to 514E-11(13),
3 and 514E-11.1."

4 2. By amending subsection (c) to read:

5 "(c) Notwithstanding any other provision of this chapter,
6 the director may issue a limited permit to a developer
7 permitting the offer or sale by the developer, in this State, of
8 a time share interest in a time share plan located outside of
9 this State, but within the United States, to an individual who
10 currently owns a time share interest that was purchased from
11 that developer, or from an affiliated entity of that developer;
12 provided that:

13 (1) The developer or an affiliated entity of the developer
14 has a time share plan currently registered with the
15 director; provided that the registration of the
16 developer or an affiliated entity of the developer was
17 originally approved or amended within seven years from
18 the date of the offer or disposition and [~~which~~] the
19 registration has not been terminated or withdrawn;

20 (2) The developer has not, during the two-year period
21 preceding the time of the offer, had a time share



1 registration suspended, restricted, or revoked in any
2 state or been convicted of an offense involving fraud
3 or dishonesty. In the event the developer satisfies
4 the requirement of paragraph (1) above through an
5 affiliated entity, the developer has not, during the
6 twenty-year period preceding the time of the offer,
7 had a time share registration suspended, restricted,
8 or revoked in any state or been convicted of an
9 offense involving fraud or dishonesty;

10 (3) The developer shall provide the purchaser with all
11 time share disclosure documents required to be
12 provided to purchasers as if the offer occurred in the
13 state where the time share plan is located;

14 (4) The contract for purchase shall include a notice that
15 is the same as or similar to the rescission notice
16 required pursuant to section [~~514E-9(a)(7);~~] 514E-
17 9(a)(8); provided that the rescission period shall be
18 at least seven days;

19 (5) In satisfaction of section 514E-16, all funds and any
20 negotiable instruments received during the seven-day
21 rescission period shall be placed in an escrow account



1 in the State. The escrow agent shall be a bank,
2 savings and loan association, or trust company
3 authorized to do business in the State under an escrow
4 arrangement or a corporation licensed as an escrow
5 depository under chapter 449. The funds or negotiable
6 instruments may be released from escrow; provided that
7 the release is in accordance with section 514E-17 or
8 514E-18. Any escrow account established for any out-
9 of-state time share plan offered under this subsection
10 may be maintained in the state where the time share
11 plan is located after the seven-day rescission period
12 has expired; provided that the escrow agent submits to
13 personal jurisdiction in this State;

14 (6) The developer shall provide the purchaser, in writing,
15 either in the disclosure documents or otherwise, all
16 of the following:

17 (A) A description of the type of time share plan
18 offered, including the duration and operation of
19 the time share plan;



- 1 (B) A description of the existing or proposed
2 accommodations and amenities in the time share
3 plan;
- 4 (C) A description of the method and timing for
5 performing maintenance on the accommodations;
- 6 (D) If applicable, copies of the declaration,
7 association articles of incorporation,
8 association bylaws, and association rules and
9 regulations; and
- 10 (E) The current annual budget for the time share
11 plan;
- 12 (7) The time share plan being offered is registered in the
13 state where the time share plan is located; or in the
14 event registration of the time share plan is not
15 required in the state where the time share plan is
16 located, the time share plan being offered is in
17 compliance with the applicable laws of that state; and
- 18 (8) The contract for purchase shall contain the following
19 statement in conspicuous type:
20 "THIS TIME SHARE PLAN HAS NOT BEEN REVIEWED OR
21 APPROVED BY THE STATE OF HAWAII BECAUSE YOU ALREADY



1 OWN AN INTEREST IN A TIME SHARE PLAN THAT YOU
 2 PURCHASED FROM _____ (DEVELOPER OR
 3 AFFILIATE'S NAME), AND _____ HAS A
 4 TIME SHARE PLAN CURRENTLY REGISTERED WITH THE STATE OF
 5 HAWAII (INCLUDE REGISTRATION #). (IF APPLICABLE)
 6 (AFFILIATE) IS AN AFFILIATED ENTITY OF THE SELLER AS
 7 THAT TERM IS DEFINED IN CHAPTER 514E, HAWAII REVISED
 8 STATUTES. THE TIME SHARE INTEREST YOU ARE PURCHASING
 9 REQUIRES CERTAIN PROCEDURES TO BE FOLLOWED IN ORDER
 10 FOR YOU TO USE YOUR INTEREST. THESE PROCEDURES MAY BE
 11 DIFFERENT FROM THOSE FOLLOWED IN OTHER TIME SHARE
 12 PLANS. YOU SHOULD READ AND UNDERSTAND THESE
 13 PROCEDURES PRIOR TO PURCHASING."

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

16 "**§514E-10.5 Consultant review of developer filing.** The
 17 director may contract with private consultants in connection
 18 with the review of the filing required of time share developers
 19 pursuant to section 514E-10(a) and [†](e)[†]. The cost of
 20 contracting private consultants shall be borne by the developer;
 21 provided that the consultant review required under this section



1 shall not affect the scope of the review under section 514E-27
2 that the director may request for filings that encompass
3 alternative arrangements for purchaser protection. The
4 consultant shall be asked to thoroughly review the filing for
5 the purpose of examining its compliance with the requirements of
6 this chapter and any rule adopted by the director, including the
7 documentation and other provided materials[-]; provided that in
8 lieu of reviewing copies of all encumbrances on title, the
9 consultant shall accept a certification from the developer that
10 the time share interest being sold is free and clear of blanket
11 liens or other material encumbrances that may materially and
12 adversely impact utilization of the property by a purchaser, or
13 if that is not the case, identifying the blanket liens or other
14 material encumbrances and either specifying how those
15 encumbrances will be addressed or what the impact of the
16 encumbrances may be to the purchaser. Upon completing the
17 review, the consultant shall provide a written analysis of the
18 filing and an opinion of the nature and extent to which it
19 complies with this chapter and adopted rules. The director may
20 adopt rules pursuant to chapter 91 to further delineate the



1 duties of the consultant in undertaking the review and analysis
2 required pursuant to this section."

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

5 SECTION 5. This Act shall take effect on June 30, 3000.



Report Title:

Time Share Plans; Primary Plan Documents; Liens; Disclosure

Description:

Specifies that primary plan documents be listed in the public disclosure statement of a time share plan. Clarifies the manner in which the required disclosure of liens, title defects, or encumbrances on the titles of units may be made. Provides that a review of encumbrances shall be waived upon the certification from the developer that the time share interest is free and clear of blanket liens or that identifies all blanket liens. Effective 6/30/3000. (HD1)

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