
A BILL FOR AN ACT

RELATING TO TIME SHARING.

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

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

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

14 The legislature additionally finds that to enforce the
15 zoning requirements for time sharing and transient vacation
16 rentals, the regulations adopted by the department of commerce
17 and consumer affairs require that developers submit a written



1 confirmation of county zoning form. This form must be signed by
2 the county where the time share units are located and is
3 intended to confirm that the time share plan meets statutory
4 zoning limitations.

5 The legislature notes that the State's time share law was
6 intended to address only the zoning of Hawaii property and not
7 apply to time shares outside of the State. The 1980 time share
8 law does not attempt to impose or enforce the zoning
9 requirements applicable to time share units located outside the
10 State, nor does that Act require that developers submit evidence
11 that time share units located outside the State comply with the
12 zoning laws where the time share units are located.

13 The purpose of this Act is to clarify that, for time share
14 units located outside the State, it is not necessary for a
15 developer to submit evidence that the use of units for time
16 sharing purposes complies with the zoning and land use laws and
17 rules of the jurisdiction where the time share units are located
18 as part of the registration process. Instead, a developer shall
19 submit a certification to the department of commerce and
20 consumer affairs that the developer has reviewed and concluded



1 that the time share units located outside the State are in
2 compliance with those regulations.

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

5 "§514E-10 Registration required; developer, acquisition
6 agent, plan manager, and exchange agent; registration renewal.

7 (a) A developer shall not offer or dispose of a time share unit
8 or a time share interest unless the disclosure statement
9 required by section 514E-9 is filed with the director pursuant
10 to the time specified in this chapter, or the development is
11 exempt from filing, and the time share plan to be offered by the
12 developer is accepted by the director for registration under
13 this chapter. The director shall not accept a developer's time
14 share plan if the developer does not possess a history of
15 honesty, truthfulness, financial integrity, and fair dealing.

16 (b) An acquisition agent (including the developer if it is
17 also the acquisition agent) shall register under this chapter by
18 filing with the director a statement setting forth the time
19 sharing plan for which it is providing prospective purchasers,
20 its address, the telephone number, other information required by
21 the director as provided by rules adopted pursuant to chapter



1 91, and, if the acquisition agent is not a natural person, the
2 name of the responsible managing employee; provided that an
3 acquisition agent licensed under chapter 467 as a real estate
4 broker shall not be required to register under this chapter.
5 All acquisition agents not licensed under chapter 467 shall be
6 approved by the director. The director shall not approve any
7 acquisition agent who is not of good character and who does not
8 possess a reputation for honesty, truthfulness, and fair
9 dealing. The acquisition agent shall furnish evidence that the
10 acquisition agent is bonded as required by rules adopted by the
11 director pursuant to chapter 91 to cover any violation by the
12 acquisition agent of any solicitation ordinance or other
13 regulation governing the use of the premise or premises in which
14 the time share plan is promoted; provided that the acquisition
15 agent shall be separately bonded for each time share plan for
16 which it is providing prospective purchases.

17 (c) A plan manager (including the developer if it is also
18 the plan manager) shall register under this chapter by filing
19 with the director a statement setting forth the time sharing
20 plan that it is managing, its principal office address,
21 telephone number, and responsible managing employee. The plan



1 manager shall furnish evidence that the plan manager is bonded
2 as required by rules adopted by the director pursuant to chapter
3 91 to cover any default of the plan manager and any of its
4 employees of their duties and responsibilities; provided that
5 the plan manager shall be separately bonded for each time share
6 plan under the management of the plan manager.

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

13 (e) Any plan manager or developer registration required in
14 this section shall be renewed by December 31 of each even-
15 numbered year, and any acquisition agent or exchange agent
16 registration required in this section shall be renewed on
17 December 31 of each odd-numbered year; provided that this
18 subsection shall not relieve the person required to register
19 from the obligation to notify the director promptly of any
20 material change in any information submitted to the director,
21 nor shall it relieve the developer of its obligation to promptly



1 file amendments or supplements to the disclosure statement, and
2 to promptly supply the amendments or supplements to purchasers
3 of time share interests.

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

6 (1) A current disclosure statement that meets the
7 requirements of section 514E-9 and section 16-106-3,
8 Hawaii Administrative Rules, if not already on file;

9 (2) A statement that is certified by the developer to be
10 true and correct in all respects and that identifies,
11 as appropriate:

12 (A) The time share units in the time share plan
13 registered pursuant to this chapter; the total
14 number of time share interests registered for
15 sale in each unit pursuant to this chapter; and
16 the total number of time share interests that
17 have not yet been sold as of the date specified
18 in the developer's certification, which date
19 shall not be more than sixty days prior to the
20 date of the developer's certification; or



1 (B) The property in the time share plan registered
2 pursuant to this chapter; the total number of
3 points registered for sale in each property
4 pursuant to this chapter; and the total number of
5 points in the time share plan that have not yet
6 been sold as of the date specified in the
7 developer's certification, which date shall not
8 be more than sixty days prior to the date of the
9 developer's certification;

10 (3) If the developer is a corporation, partnership, joint
11 venture, limited liability company, or limited
12 liability partnership, an original certificate of good
13 standing issued by the business registration division
14 of the department of commerce and consumer affairs not
15 more than forty-five days before the date of
16 submission of the renewal application; and

17 (4) The biennial renewal fee.

18 (g) Developers shall not be required to include the
19 following in an application for renewal of a developer
20 registration of a time share plan:

21 (1) A financial statement of the developer; or



1 (2) A policy of title insurance, a preliminary title
2 report, abstract of title, or certificate of title on
3 the units or time share interests in the time share
4 plan.

5 (h) A developer shall be responsible for ensuring that the
6 use for time sharing purposes of time share units located
7 outside the State in a time share plan is in compliance with the
8 zoning and land use laws and regulations of the jurisdiction
9 where the time share units are located and shall submit a
10 certification to the director that the developer has reviewed
11 and concluded that the time share units located outside the
12 State are in compliance with those regulations. The developer
13 shall not be required, as part of the developer registration, to
14 submit evidence that the use of time share units located outside
15 the State in the time share plan is in compliance with the
16 zoning and land use laws and regulations of the jurisdiction
17 where the time share units are located."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on June 30, 3000.

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Report Title:

Time Sharing; Time Share; Out-of-state Time Share Units; Zoning Requirements

Description:

Clarifies that a developer is responsible for ensuring that the use of time share units located outside the State for time sharing purposes complies with zoning and land use laws and rules of the jurisdiction where the time share units are located and shall submit a certification to the Department of Commerce and Consumer Affairs that the developer has reviewed and concluded that the time share units located outside the State are in compliance with those regulations. Clarifies that a developer is not required to submit evidence of such compliance to register in Hawaii. Effective 6/30/3000. (SD1)

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

