

JAN 20 2023

A BILL FOR AN ACT

RELATING TO TIME SHARE PLANS.

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

1 SECTION 1. The legislature finds the mainland-based
2 phenomenon through which certain companies evade county taxes
3 and regulations regarding time share units has started to erode
4 communities on the island of Maui. The legislature finds that
5 the new phenomenon of flexible ownership interests, primarily
6 propagated through time share limited liability companies, has
7 emerged, as vacation homes have been masquerading under the
8 guise of joint homeownership.

9 The legislature finds that a time share plan, as regulated
10 under chapter 514E, Hawaii Revised Statutes, allows an entity to
11 purchase a small interest in a property and provides that entity
12 the right to occupy the property for a period proportionate to
13 the size of the entity's investment. The legislature finds that
14 this is similar to the new joint home ownership model, which
15 allows buyers to purchase shares in a limited liability company
16 and use the purchased properties as second homes. While this
17 system theoretically requires the occupants in a unit to be the



1 owners of the unit, the legislature finds that the effect of
2 this type of arrangement on a neighborhood is essentially the
3 same as one that allows rotating occupants, and does not require
4 a consistent group of neighbors.

5 The legislature further finds that the shares in these new
6 entities can be sold, which adds to the speculation effect of
7 these homes on other homes in the neighborhoods they occupy.
8 The legislature believes that these entities, finding a loophole
9 in Hawaii law, are aggressively rushing into Hawaii's market to
10 buy residential homes to convert them into pseudo-vacation
11 rentals that, in all likelihood, will soon be exploited even
12 further. The legislature therefore finds that this model of
13 joint second homeownership poses a direct threat to the State's
14 residential communities. If the State fails to take action,
15 this threat will grow, expand, and have a dire effect on Maui's
16 already over-speculated housing market.

17 The legislature recognizes that St. Helena and Sonoma, in
18 California, have attempted to amend their laws to treat these
19 new entities as time share plans. The legislature finds that
20 this State should follow the example of those municipalities, as
21 both the State and the counties need the power to extend rules



1 and regulations governing time share units to these new
2 entities, and the counties need the power to impose taxes upon
3 the owners of these entities in the same manner that they would
4 impose taxes upon owners of time share interests.

5 Accordingly, the purpose of this Act is to subject any
6 fractional ownership plan for a joint homeownership limited
7 liability company, or any other entity, to the time sharing
8 provisions of chapter 514E, Hawaii Revised Statutes.

9 SECTION 2. Section 514E-1, Hawaii Revised Statutes, is
10 amended by amending the definitions of "time share interest" and
11 "time share plan" to read as follows:

12 "Time share interest" means any interest, including a
13 fractional ownership through a joint homeownership limited
14 liability company or other entity, in a time share unit or plan
15 which entitles the owner or holder thereof to the use, occupancy
16 or possession of a time share unit on a periodically recurring
17 basis.

18 "Time share plan" means any plan or program, including a
19 fractional ownership plan for a joint homeownership limited
20 liability company or other entity, in which the use, occupancy,
21 or possession of one or more time share units circulates among



1 various persons for less than a sixty-day period in any year,
2 for any occupant. The term time share plan shall include both
3 time share ownership plans and time share use plans, as follows:

4 (1) "Time share ownership plan" means any arrangement
5 whether by tenancy in common, sale, deed or by other
6 means, whereby the purchaser receives an ownership
7 interest and the right to use the property for a
8 specific or discernible period by temporal division.

9 (2) "Time share use plan" means any arrangement, excluding
10 normal hotel operations, whether by membership
11 agreement, lease, rental agreement, license, use
12 agreement, security or other means, whereby the
13 purchaser receives a right to use accommodations or
14 facilities, or both, in a time share unit for a
15 specific or discernible period by temporal division,
16 but does not receive an ownership interest."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'Qa', is written over a horizontal line.

S.B. NO. 1131

Report Title:

Time Shares; Fractional Ownership Interest; Joint Ownership LLCs

Description:

Amends the definitions of "time share interest" and "time share plan" in state time sharing plan law for the purpose of subjecting any fractional ownership plan for a joint homeownership limited liability company, or any other entity, to the law.

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

