
A BILL FOR AN ACT

RELATING TO REGISTRATION OF TIME SHARES.

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

1 SECTION 1. The legislature finds that time share
2 accommodations form an important component of Hawaii's visitor
3 industry and provide a consistent and steady stream of visitors
4 and revenue for the State's overall economy.

5 The legislature further finds that the time share industry
6 itself has matured so that many of Hawaii's time share units are
7 now associated with international hotel and lodging companies
8 who hold reputable and recognized brands.

9 The legislature also finds that the State's existing time
10 share registration requirement for developers requires filing
11 for renewal of registrations and filing when there are
12 amendments to time share plans. However, review and approval of
13 these registrations are often significantly delayed, which
14 creates a burden on the time share industry and its ability to
15 maintain and attract time share owners and consumers. Delays in
16 the approval of amendments also prevent consumers from receiving
17 the most current information about purchases of time shares.



1 Accordingly, the purpose of this Act is to:

2 (1) Provide that applications for registration renewal
3 required by section 514E-10, Hawaii Revised Statutes,
4 shall be deemed approved upon delivery; and

5 (2) Provide that any amendment to a required time share
6 plan registration shall be deemed approved by
7 operation of law on the forty-fifth day after the
8 amendment is submitted to the director of commerce and
9 consumer affairs, unless the director issues a
10 deficiency letter within that period.

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

13 **"§514E-10 Registration required; developer, acquisition**
14 **agent, plan manager, and exchange agent; registration renewal;**
15 **title report; title holding trusts.** (a) A developer shall not
16 offer or dispose of a time share unit or a time share interest
17 unless the disclosure statement required by section 514E-9 is
18 filed with the director pursuant to the time specified in this
19 chapter, or the development is exempt from filing, and the time
20 share plan to be offered by the developer is accepted by the
21 director for registration under this chapter. The director



1 shall not accept a developer's time share plan if the developer
2 does not possess a history of honesty, truthfulness, financial
3 integrity, and fair dealing.

4 (b) An acquisition agent (including the developer if it is
5 also the acquisition agent) shall register under this chapter by
6 filing with the director a statement setting forth the time
7 sharing plan for which it is providing prospective purchasers,
8 its address, the telephone number, other information required by
9 the director as provided by rules adopted pursuant to chapter
10 91, and, if the acquisition agent is not a natural person, the
11 name of the responsible managing employee; provided that an
12 acquisition agent licensed under chapter 467 as a real estate
13 broker shall not be required to register under this chapter.
14 All acquisition agents not licensed under chapter 467 shall be
15 approved by the director. The director shall not approve any
16 acquisition agent who is not of good character and who does not
17 possess a reputation for honesty, truthfulness, and fair
18 dealing. The acquisition agent shall furnish evidence that the
19 acquisition agent is bonded as required by rules adopted by the
20 director pursuant to chapter 91 to cover any violation by the
21 acquisition agent of any solicitation ordinance or other



1 regulation governing the use of the premise or premises in which
2 the time share plan is promoted; provided that the acquisition
3 agent shall be separately bonded for each time share plan for
4 which it is providing prospective purchases.

5 (c) A plan manager (including the developer if it is also
6 the plan manager) shall register under this chapter by filing
7 with the director a statement setting forth the time sharing
8 plan that it is managing, its principal office address,
9 telephone number, and responsible managing employee. The plan
10 manager shall furnish evidence that the plan manager is bonded
11 as required by rules adopted by the director pursuant to chapter
12 91 to cover any default of the plan manager and any of its
13 employees of their duties and responsibilities; provided that
14 the plan manager shall be separately bonded for each time share
15 plan under the management of the plan manager.

16 (d) An exchange agent (including the developer if it is
17 also an exchange 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 offering exchange services, its
20 principal office address and telephone number, and designate its
21 responsible managing employee.



1 (e) Any plan manager or developer registration required in
2 this section shall be renewed by December 31 of each even-
3 numbered year, and any acquisition agent or exchange agent
4 registration required in this section shall be renewed on
5 December 31 of each odd-numbered year; provided that this
6 subsection shall not relieve the person required to register
7 from the obligation to notify the director promptly of any
8 material change in any information submitted to the director,
9 nor shall it relieve the developer of its obligation to promptly
10 file amendments or supplements to the disclosure statement, and
11 to promptly supply the amendments or supplements to purchasers
12 of time share interests. Applications for renewal required by
13 this section shall be deemed approved upon delivery.

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

- 16 (1) A current disclosure statement that meets the
17 requirements of section 514E-9 and section 16-106-3,
18 Hawaii Administrative Rules, if not already on file;
- 19 (2) A statement that is certified by the developer to be
20 true and correct in all respects and that identifies,
21 as appropriate:



- 1 (A) The time share units in the time share plan
2 registered pursuant to this chapter; the total
3 number of time share interests registered for
4 sale in each unit pursuant to this chapter; and
5 the total number of time share interests that
6 have not yet been sold as of the date specified
7 in the developer's certification, which date
8 shall not be more than sixty days prior to the
9 date of the developer's certification; or
- 10 (B) The property in the time share plan registered
11 pursuant to this chapter; the total number of
12 points registered for sale in each property
13 pursuant to this chapter; and the total number of
14 points in the time share plan that have not yet
15 been sold as of the date specified in the
16 developer's certification, which date shall not
17 be more than sixty days prior to the date of the
18 developer's certification;
- 19 (3) If the developer is a corporation, partnership, joint
20 venture, limited liability company, or limited
21 liability partnership, an original certificate of good



1 standing issued by the business registration division
2 of the department of commerce and consumer affairs not
3 more than forty-five days before the date of
4 submission of the renewal application; and

5 (4) The biennial renewal fee.

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

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

10 (2) A policy of title insurance, a preliminary title
11 report, abstract of title, or certificate of title on
12 the units or time share interests in the time share
13 plan.

14 (h) Any amendment to a time share plan registration
15 required by this chapter, except for amendments that add
16 inventory to or remove inventory from a plan, shall be approved
17 by operation of law on the forty-fifth day after the amendment
18 is submitted to the director unless the director issues a
19 deficiency letter prior to the end of the review period.



1 A deficiency letter shall list all deficiencies and
2 describe each deficiency in sufficient detail to enable the
3 applicant to address the deficiency.

4 In the event that a deficiency letter is not issued within
5 the forty-five-day period, upon request by the applicant the
6 director shall furnish to the applicant, within ten business
7 days after receipt of the applicant's request, a letter
8 confirming that the amendment has been approved either by action
9 of the director or by operation of law.

10 [~~h~~] (i) A developer's application for registration or
11 annexation shall include:

12 (1) A list of the projects containing the time share units
13 that are included in the application and that are
14 located outside the State; and

15 (2) A statement by the developer that it has verified that
16 the use of each of those out-of-state time share units
17 for time sharing purposes in the manner contemplated
18 by the developer's time share plan is either in
19 compliance with or not prohibited by the zoning and
20 land use laws and regulations of the jurisdiction
21 where the time share units are located.



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

7 ~~[(i)]~~ (j) To the extent that a time share plan utilizes a
8 title holding trust to protect the rights of purchasers to use
9 the time share property from blanket liens that may arise
10 subsequent to the closing of the sale of a time share interest:

11 (1) The developer shall submit a title report:

12 (A) Showing that title to the time share units or
13 time share interest to be protected by a title
14 holding trust has been conveyed to the trustee;
15 and

16 (B) Showing the recordation of any documents required
17 to be recorded for the purpose of protecting the
18 rights of purchasers to use the time share
19 property from blanket liens that will remain on
20 title subsequent to the closing; and



1 (2) The developer shall not thereafter be required to
 2 submit additional title reports on property covered by
 3 a title report that meets the requirements of
 4 paragraph (1) unless otherwise required in another
 5 section of this chapter.

6 ~~[(j)]~~ (k) To the extent that a time share plan utilizes a
 7 notice of time share plan to protect the rights of purchasers to
 8 use the time share property from blanket liens that may arise
 9 subsequent to the closing of the sale of a time share interest:

- 10 (1) The developer shall submit a title report:
- 11 (A) Showing that a notice of time share plan has been
 - 12 recorded on title to the time share units or time
 - 13 share interests to be so protected; and
 - 14 (B) Showing the recordation of any documents required
 - 15 to be recorded for the purpose of protecting the
 - 16 rights of purchasers to use the time share
 - 17 property from blanket liens that will remain on
 - 18 title subsequent to the closing; and

19 (2) The developer shall not thereafter be required to
 20 submit additional title reports on property covered by
 21 a title report that meets the requirements of



1 paragraph (1) unless otherwise required in another
2 section of this chapter.

3 ~~[(*)]~~ (1) To the extent that a time share plan utilizes
4 alternative arrangements to protect the rights of purchasers to
5 use the time share property from blanket liens:

6 (1) The developer shall submit a title report showing the
7 recordation of all documents that, as part of the
8 alternative arrangements accepted by the director, are
9 required to be recorded for the purpose of protecting
10 the rights of purchasers to use the time share
11 property from blanket liens; and

12 (2) The developer shall not thereafter be required to
13 submit additional title reports on property covered by
14 a title report that meets the requirements of
15 paragraph (1) unless otherwise required in another
16 section of this chapter."

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. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Time Shares; Registration; Renewal; Amendments; Director of
Commerce and Consumer Affairs

Description:

Provides that applications for registration renewal required by section 514E-10, Hawaii Revised Statutes, shall be deemed approved upon delivery. Provides that any amendment to a required time share plan registration shall be deemed approved by operation of law on the forty-fifth day after the amendment is submitted to the Director of Commerce and Consumer Affairs, unless the Director issues a deficiency letter within that period. Effective 7/1/3000. (HD1)

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

