
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 that 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 thirty days after receipt of
5 all required documents; and

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

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

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



1 director for registration under this chapter. The director
2 shall not accept a developer's time share plan if the developer
3 does not possess a history of honesty, truthfulness, financial
4 integrity, and fair dealing.

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



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

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

17 (d) An exchange agent (including the developer if it is
18 also an exchange agent) shall register under this chapter by
19 filing with the director a statement setting forth the time
20 [~~sharing~~] share plan for which it is offering exchange services,



1 its principal office address and telephone number, and designate
2 its responsible managing employee.

3 (e) Any plan manager or developer registration required in
4 this section shall be renewed by December 31 of each even-
5 numbered year, and any acquisition agent or exchange agent
6 registration required in this section shall be renewed on
7 December 31 of each odd-numbered year; provided that this
8 subsection shall not relieve the person required to register
9 from the obligation to notify the director promptly of any
10 material change in any information submitted to the director,
11 nor shall it relieve the developer of its obligation to promptly
12 file amendments or supplements to the disclosure statement, and
13 to promptly supply the amendments or supplements to purchasers
14 of time share interests. Applications for renewal required by
15 this section shall be deemed approved thirty days after receipt
16 of all documents required under subsection (f) and section 16-
17 106-4.2, Hawaii Administrative Rules.

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



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

4 ~~(2)]~~ (1) A statement that is certified by the developer to
5 be true and correct in all respects and that
6 identifies, as appropriate:

7 (A) The time share units in the time share plan
8 registered pursuant to this chapter; the total
9 number of time share interests registered for
10 sale in each time share unit pursuant to this
11 chapter; and the total number of time share
12 interests that have not yet been sold as of the
13 date specified in the developer's certification,
14 which date shall ~~[not]~~ be no more than sixty days
15 ~~[prior to]~~ before the date of the developer's
16 certification; or

17 (B) The property in the time share plan registered
18 pursuant to this chapter; the total number of
19 points registered for sale in each property
20 pursuant to this chapter; and the total number of
21 points in the time share plan that have not yet



1 been sold as of the date specified in the
2 developer's certification, which date shall [~~not~~]
3 be no more than sixty days [~~prior to~~] before the
4 date of the developer's certification;

5 [~~(3)~~] (2) If the developer is a corporation, partnership,
6 joint venture, limited liability company, or limited
7 liability partnership, an original certificate of good
8 standing issued by the business registration division
9 of the department of commerce and consumer affairs
10 [~~not~~] no more than forty-five days before the date of
11 submission of the renewal application; and

12 [~~(4)~~] (3) The biennial renewal fee.

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

- 16 (1) A financial statement of the developer; or
- 17 (2) A policy of title insurance, a preliminary title
18 report, abstract of title, or certificate of title on
19 the time share units or time share interests in the
20 time share plan.



1 (h) Any amendment to a time share plan registration
2 required by this chapter, except for amendments that add
3 inventory to or remove inventory from a time share plan, shall
4 be approved by operation of law on the sixtieth day after the
5 amendment is submitted to the director unless the director
6 issues a deficiency letter before the end of the sixtieth day.

7 A deficiency letter shall list all deficiencies and
8 describe each deficiency in sufficient detail to enable the
9 applicant to address the deficiency.

10 In the event that a deficiency letter is not issued within
11 the sixty-day period, upon request by the applicant the director
12 shall furnish to the applicant, within ten business days after
13 receipt of the applicant's request, a letter confirming that the
14 amendment has been approved either by action of the director or
15 by operation of law.

16 ~~(h)~~ (i) A developer's application for registration or
17 annexation shall include:

18 (1) A list of the projects containing the time share units
19 that are included in the application and that are
20 located outside the State; and



1 (2) A statement by the developer that it has verified that
2 the use of each of those out-of-state time share units
3 for time sharing purposes in the manner contemplated
4 by the developer's time share plan is either in
5 compliance with or not prohibited by the zoning and
6 land use laws and regulations of the jurisdiction
7 where the time share units are located.

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

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

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

19 (A) Showing that title to the time share units or
20 time share interest to be protected by a title



1 holding trust has been conveyed to the trustee;
2 and

3 (B) Showing the recordation of any documents required
4 to be recorded for the purpose of protecting the
5 rights of purchasers to use the time share
6 property from blanket liens that will remain on
7 title subsequent to the closing; and

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

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

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

18 (A) Showing that a notice of time share plan has been
19 recorded on title to the time share units or time
20 share interests to be so protected; and



1 (B) Showing the recordation of any documents required
2 to be recorded for the purpose of protecting the
3 rights of purchasers to use the time share
4 property from blanket liens that will remain on
5 title subsequent to the closing; and

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

11 [~~(k)~~] (1) To the extent that a time share plan utilizes
12 alternative arrangements to protect the rights of purchasers to
13 use the time share property from blanket liens:

14 (1) The developer shall submit a title report showing the
15 recordation of all documents that, as part of the
16 alternative arrangements accepted by the director, are
17 required to be recorded for the purpose of protecting
18 the rights of purchasers to use the time share
19 property from blanket liens; and

20 (2) The developer shall not thereafter be required to
21 submit additional title reports on property covered by



1 a title report that meets the requirements of
2 paragraph (1) unless otherwise required in another
3 section of this chapter."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

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

9 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 thirty days after receipt of all required documents. Provides that any amendment to a required time share plan registration shall be deemed approved by operation of law on the sixtieth 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.
(HD2)

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