
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 renewals
3 required by section 514E-10, Hawaii Revised Statutes,
4 shall be deemed approved thirty days after receipt of
5 all required documents, unless the director of
6 commerce and consumer affairs issues a deficiency
7 letter within that period; and

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

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

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



1 chapter, or the development is exempt from filing, and the time
2 share plan to be offered by the developer is accepted by the
3 director for registration under this chapter. The director
4 shall not accept a developer's time share plan if the developer
5 does not possess a history of honesty, truthfulness, financial
6 integrity, and fair dealing.

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



1 the acquisition agent is bonded as required by rules adopted by
2 the director pursuant to chapter 91 to cover any violation by
3 the acquisition agent of any solicitation ordinance or other
4 regulation governing the use of the premise or premises in which
5 the time share plan is promoted; provided that the acquisition
6 agent shall be separately bonded for each time share plan for
7 which it is providing prospective purchases.

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

19 (d) An exchange agent (including the developer if it is
20 also an exchange agent) shall register under this chapter by
21 filing with the director a statement setting forth the time



1 ~~[sharing]~~ share plan for which it is offering exchange services,
2 its principal office address and telephone number, and designate
3 its responsible managing employee.

4 (e) Any plan manager or developer registration required in
5 this section shall be renewed by December 31 of each even-
6 numbered year, and any acquisition agent or exchange agent
7 registration required in this section shall be renewed on
8 December 31 of each odd-numbered year; provided that this
9 subsection shall not relieve the person required to register
10 from the obligation to notify the director promptly of any
11 material change in any information submitted to the director,
12 nor shall it relieve the developer of its obligation to promptly
13 file amendments or supplements to the disclosure statement, and
14 to promptly supply the amendments or supplements to purchasers
15 of time share interests. Applications for renewal required by
16 this section shall be deemed approved thirty days after receipt
17 of all documents required under subsection (f) and section
18 16-106-4.2, Hawaii Administrative Rules, unless the director
19 issues a deficiency letter detailing the specific deficiencies
20 of the filing before the end of the thirtieth day.



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

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

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

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

19 (B) The property in the time share plan registered
20 pursuant to this chapter; the total number of
21 points registered for sale in each property



1 pursuant to this chapter; and the total number of
2 points in the time share plan that have not yet
3 been sold as of the date specified in the
4 developer's certification, which date shall ~~[not]~~
5 be no more than sixty days ~~[prior to]~~ before the
6 date of the developer's certification;

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

14 ~~[(4)]~~ (3) The biennial renewal fee.

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

- 18 (1) A financial statement of the developer; or
19 (2) A policy of title insurance, a preliminary title
20 report, abstract of title, or certificate of title on



1 the time share units or time share interests in the
2 time share plan.

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

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

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

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



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

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

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

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

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



1 (A) Showing that title to the time share units or
2 time share interest to be protected by a title
3 holding trust has been conveyed to the trustee;
4 and

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

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

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

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

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

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

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

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

17 (1) The developer shall submit a title report showing the
18 recordation of all documents that, as part of the
19 alternative arrangements accepted by the director, are
20 required to be recorded for the purpose of protecting



1 the rights of purchasers to use the time share
2 property from blanket liens; and
3 (2) The developer shall not thereafter be required to
4 submit additional title reports on property covered by
5 a title report that meets the requirements of
6 paragraph (1) unless otherwise required in another
7 section of this chapter."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 began before its effective date.

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

13 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:

Establishes that applications for registration renewals for time share developers, acquisition agents, plan managers, and exchange agents required by section 514E-10, HRS, shall be deemed approved thirty days after receipt of all required documents, unless the Director of Commerce and Consumer Affairs issues a deficiency letter within that period. Establishes 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, unless the Director issues a deficiency letter within that period. Effective 7/1/3000. (SD1)

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