

ACT 18

H.B. NO. 23

A Bill for an Act Relating to Deceptive Trade Practices for Time Share Plans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514E-11.1, Hawaii Revised Statutes, is amended to read as follows:

“§514E-11.1 Deceptive trade practices. It shall constitute an unfair or deceptive practice, within the meaning of chapter 480, for any developer, acquisition agent, or sales agent of time share units or plans to:

- (1) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements without fully disclosing that the device is being used for the purpose of soliciting sales of time share interests;

- (2) Offer a prospective purchaser a prize or gift, in writing, as part of any time share advertising or sales promotion plan, if ~~[in order]~~ to claim the prize or gift, the prospective purchaser must attend a sales presentation, unless the written disclosure described in section 514E-11(3) is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type;
- (3) Fail to inform each purchaser orally and in writing, at the time the purchaser signs the contract, of the purchaser's seven-day right to cancel or void the contract to purchase a time share interest in a time share plan or unit;
- (4) Misrepresent in any manner the purchaser's right to cancel or void any contract to purchase a time share interest in a time share plan or unit;
- (5) Include in any contract or document provisions purporting to waive any right or benefit to which the purchaser is entitled under this chapter;
- (6) Fail or refuse to honor any valid notice of cancellation of the contract by the purchaser~~[,]~~ and, within fifteen business days after receipt of such notice, fail or refuse to refund all payments made under the contract or sale; or fail or refuse to cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any appropriate action to terminate promptly any mortgage, lien, or other security interest created in connection with the transaction;
- (7) ~~Fail to include [on promotional literature and other printed or written material the caption "THIS IS A TIME SHARING SALES PRESENTATION" (in capital letters of 24 point bold type, or type as large as the largest printing or writing elsewhere in the material), under which must be printed (in type of the same size as the caption described above)]~~ above the signature line of any sales contract or, if no sales contract is used, above the signature line of any agreement with the purchaser, in conspicuous bold type and capital letters, the following: "Any purchaser has, under the law, a seven-day right of rescission of any time sharing sales contract";
- (8) Misrepresent the amount of time or period of time the time share unit will be available to any purchaser;
- (9) Misrepresent or deceptively represent the location or locations of the offered time share unit;
- (10) Misrepresent the size, nature, extent, qualities, or characteristics of the offered time share units;
- (11) Misrepresent the nature or extent of any services incident to the time share unit;
- (12) Misrepresent the conditions under which a purchaser may exchange the purchaser's occupancy rights to a time share unit in one location for occupancy rights to a time share unit in another location; ~~[or]~~
- (13) Fail to orally disclose during the initial oral contact with a prospective purchaser that any promised entertainment, prizes, gifts, food and drinks, games, or other inducements are being offered for the purpose of soliciting sales of time share interests in time share units or plans~~[,]~~; or
- (14) Fail to include in promotional literature and other printed or written material a disclosure that the product or activity involves time share. The director may by rule prescribe the nature of the disclosure."

SECTION 2. Statutory material to be repealed is bracketed and stricken.
New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2002.

(Approved April 25, 2001.)