

ACT 204

H.B. NO. 2832

A Bill for an Act Relating to Time Sharing Plans.

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

SECTION 1. Section 514A-14.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section does not apply:

- (1) To apartments developed under chapter 201G; [and]
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment[-]; and
- (3) To apartments designated in the declaration of condominium property regime for hotel, time share, transient vacation rental, or commercial use.”

SECTION 2. Section 514A-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Prior to the time when a developer offers or proposes to offer for sale a time share plan located in a condominium project where apartments are being offered or proposed to be offered for sale for the first time to the public, the developer shall register the project with the commission and obtain an effective date for the developer’s public report; provided that the developer shall not be required to deliver to a prospective purchaser or purchaser a true copy of the developer’s public report or disclosure abstract, as required by this chapter, when a time share plan is duly registered under chapter 514E[~~and for which a disclosure statement under chapter 514E is effective and required to be delivered to the purchaser or prospective purchaser.~~] if, with regard to that time share project:

- (1) A copy of the disclosure statement required by chapter 514E is required to be delivered to the purchaser or prospective purchaser; or
- (2) Pursuant to section 514E-30, a copy of the disclosure statement required by chapter 514E is not required to be delivered to the purchaser or prospective purchaser because the offer and sale of the time share interest is made outside of Hawaii.”

SECTION 3. Section 514A-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E[~~and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.~~] if, with regard to that time share project:

- (1) A copy of the disclosure statement required by chapter 514E is required to be delivered to the purchaser or prospective purchaser; or
- (2) Pursuant to section 514E-30, a copy of the disclosure statement required by chapter 514E is not required to be delivered to the purchaser or prospective purchaser because the offer and sale of the time share interest is made outside of Hawaii.”

SECTION 4. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E~~[- and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.]~~ if, with regard to that time share project:

- (1) A copy of the disclosure statement required by chapter 514E is required to be delivered to the purchaser or prospective purchaser; or
- (2) Pursuant to section 514E-30, a copy of the disclosure statement required by chapter 514E is not required to be delivered to the purchaser or prospective purchaser because the offer and sale of the time share interest is made outside of Hawaii.”

SECTION 5. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E~~[- and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.]~~ if, with regard to that time share project:

- (1) A copy of the disclosure statement required by chapter 514E is required to be delivered to the purchaser or prospective purchaser; or
- (2) Pursuant to section 514E-30, a copy of the disclosure statement required by chapter 514E is not required to be delivered to the purchaser or prospective purchaser because the offer and sale of the time share interest is made outside of Hawaii.”

SECTION 6. Section 514E-2.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The director shall adopt rules limiting the activities of and governing sales agents and acquisition agents, regardless of whether such persons are also licensed under chapter 467. ~~[Such regulations:]~~ The rules:

- (1) May authorize an acquisition agent [who is], whether or not licensed under chapter 467, and its employees and independent contractors, whether or not licensed under chapter 467, to invite others to attend a time share sales presentation or an entertainment function offered in connection therewith, so long as [-such] the invitation is made from a principal place of business, branch office, [site office,] or other real estate place of business, or from a booth operated in accordance with state and county laws by the acquisition agent;
- (2) May authorize an acquisition agent [who is], whether or not licensed under chapter 467, and its employees and independent contractors, whether or not licensed under chapter 467, to extend invitations from a principal place of business, branch office, or other real estate place of business, or from a booth, without requiring the physical presence of a person licensed under chapter 467; provided that the acquisition agent’s employees remain in the principal place of business or the booth at all times;
- (3) Shall provide that any individual, who for compensation solicits or encourages others to attend a time share sales presentation or to contact a time share sales agent or developer, shall be employed, either directly or as an independent contractor, by a sales agent or acquisition agent;
- (4) Shall provide that a real estate broker or acquisition agent who employs, either directly or as an independent contractor, an individual[.] who is not licensed under chapter 467, to solicit or encourage others to attend a time share presentation or to contact a time share sales agent or developer, shall be responsible for the acts of [such] the employee;

- (5) Shall establish rules and conditions strictly regulating and, if legally permissible, prohibiting telephone solicitation of guests in hotels; and
- (6) Shall establish such other rules as the director deems to be in the public interest.”

SECTION 7. Section 514E-5, Hawaii Revised Statutes, is amended to read as follows:

“**§514E-5 Geographic limitations.** Except as provided in this section, time share units, time share plans, and transient vacation rentals are prohibited.

- (1) Existing time share units, time share plans, and transient vacation rentals are not impaired by the provisions of this section.
- (2) Time share units, time share plans, and transient vacation rentals are allowed:
 - (A) In areas designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use; [øf]
 - (B) In a hotel where the county explicitly approves such use, in advance, as a nonconforming use[-]; or
 - (C)¹ In a county with a population in excess of five hundred thousand, in an existing hotel which is a valid non-conforming use under county ordinance; provided that the property shall have at least sixty units and at least forty per cent of the units, upon completion of sales of the time share intervals in the project, shall be made available for sale as residential apartments or rented as residential apartments.”

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

SECTION 9. This Act shall take effect upon its approval.

(Approved June 25, 2002.)

Note

1. Should be underscored.