

ACT 70

S.B. NO. 2481

A Bill for an Act Relating to Time Shares.

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

SECTION 1. The legislature finds that time share developers frequently develop projects in more than one state or country. Hawaii law requires that a developer register a time share plan located outside of Hawaii prior to offering and selling time share interests in Hawaii, which is appropriate because the offer and sale of the time share interests in a time share plan located outside of Hawaii take place in Hawaii. However, managers of time share plans located outside of Hawaii do not conduct business in Hawaii. Requiring these managers to register in Hawaii may raise difficult questions, including whether these managers should acquire a Hawaii real estate license, even though they have no presence and conduct no business in the State. Amendments to address managers of time share plans located outside of Hawaii are therefore necessary.

The legislature finds that chapter 514E, Hawaii Revised Statutes, was amended in 1982 to establish a comprehensive scheme to protect the rights of time share purchasers from blanket liens that might deprive the purchasers of the right to use the property of a time share plan. These amendments required that an association of time share owners be established as a nonprofit corporation, whether in Hawaii or elsewhere. However, since that time new kinds of business organizations have been created. Amendments to modernize chapter 514E, Hawaii Revised Statutes, are therefore necessary.

Accordingly, the purpose of this Act is to:

- (1) Eliminate the requirement that a manager of a time share plan located outside of Hawaii register in Hawaii as a time share plan manager;
- (2) Require the disclosure statement for an offering of a time share plan to disclose that the manager of a time share plan located outside of Hawaii is not registered under Hawaii's time share law;
- (3) Recognize that an association of time share owners may be any kind of nonprofit or not-for-profit entity; and
- (4) Make housekeeping amendments.

SECTION 2. Section 514E-9, Hawaii Revised Statutes, is amended to read as follows:

“§514E-9 Disclosure statement. (a) Any offering of a time sharing plan to the public shall disclose:

- (1) The name and address of the developer and of the time share units;
 - (2) The name and address of the plan manager, if any, and a description of the plan manager’s responsibilities and authority;
 - (3) A description of the time share units, including the developer’s schedule for completion of all buildings, units, and amenities and dates of availability;
 - (4) If the time share plan is located in a condominium property regime, a description of the project and any pertinent provisions of the project instruments;
 - (5) Any restraints on the transfer of the buyer’s time share interest in the time share units or plan;
 - (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
 - (7) A statement that there is a seven-calendar-day period of mutual rescission;
 - (8) A statement that pursuant to section 514E-11.3, every sale or transfer, made in violation of this chapter is voidable at the election of the purchaser;
 - (9) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
 - (10) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
 - (11) The total financial obligation of the purchaser, which shall consist of:
 - (A) A statement that the purchaser is obligated to pay the initial price stated in the purchaser’s purchase agreement; and
 - (B) A list or description of any additional charges to which the purchaser may be subject;
 - (12) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; ~~and~~
 - ~~(13)~~ The disclosure statement under subsection (d), if applicable; and
 - ~~(14)~~ (14) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91.
- (b) The requirements of this section shall not apply to the following transactions:
- (1) Any transaction pursuant to order of any court;
 - (2) Any disposition by a government or governmental agency;
 - (3) Normal hotel operations; or
 - (4) Any gratuitous transfer.
- (c) A developer or sales agent shall promptly amend or supplement the disclosure statement to report any material change in the information required by this section.
- (d) If all the time share units are located outside the State, the disclosure statement shall contain the following statement:

“BECAUSE THE TIME SHARE UNITS OF THIS TIME SHARE PLAN ARE LOCATED OUTSIDE THE STATE OF HAWAII, THE PLAN MANAGER IS EXEMPT FROM REGISTRATION UNDER HAWAII’S TIME SHARE LAW, AND HAWAII’S TIME SHARE

LAW PROVIDES NO PROTECTIONS TO PURCHASERS WITH RESPECT TO THE PLAN MANAGER.”.”

SECTION 3. Section 514E-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All time share plans shall have an association which shall be a non-profit ~~or not-for-profit corporation[-].~~ a nonprofit or not-for-profit limited liability company, or any other entity organized on a nonprofit or not-for-profit basis, or that qualifies as a homeowners association under title 26 United States Code section 528. Each owner shall be a member of the association.”

SECTION 4. Section 514E-30, Hawaii Revised Statutes, is amended to read as follows:

“**§514E-30 Scope of chapter.** This chapter applies to the offer and sale in Hawaii of time share interests in time share units located in Hawaii. If time share units are located outside of Hawaii, but any offer or sale is made within the State, this chapter, except for sections 514E-3, 514E-4, 514E-5, 514E-6, 514E-7, 514E-10(c), and 514E-14, shall apply. As to the offer and sale outside of Hawaii of time share interest in a time share plan which includes time share units located in Hawaii, this chapter, except for sections 514E-2.5, 514E-8, 514E-9, 514E-10(b) ~~and (c)~~, 514E-11, and 514E-11.1 shall apply.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 30, 2014.)