A BILL FOR AN ACT

RELATING TO TIME SHARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that under chapter 514E, Hawaii Revised Statutes, prospective purchasers of time share interests must be provided a copy of a disclosure statement. When this chapter was originally enacted, receipt of paper documents was common practice. However, recent years have witnessed the rise of electronic commerce and the widespread distribution of information through electronic means. Many consumers and purchasers now prefer an option of receiving important documents electronically.

The legislature further finds that time share registrations are required to be renewed every other year. Developers are currently required to disclose the number of time share units and the number of time share interests in each unit during the renewal process. However, although some time share plans continue to divide time share units into time share interests, the modern trend is for time share plans to use a points system.

The legislature additionally finds that developers of time shares are also required to provide title reports in connection
with renewal registrations. Some non-deeded time share plans
may include property in dozens or more locations, and furnishing
title reports on each unit in a time share plan is burdensome
and expensive. Furthermore, there are already existing lien
protections for non-deeded time share plans; these are designed
so that the encumbrances recorded after the blanket lien
protections are established will not impair the rights of time
share purchasers.

The legislature also finds that developers are required to
file a financial statement in connection with renewal
registration. Many developers are subsidiaries of publicly
traded companies, and preparation of financial statements for
the subsidiaries has proven burdensome for developers while
providing little to no perceived benefit to consumers.

The purpose of this Act is to:

(1) Permit prospective purchasers of time share interests
to receive printed or electronic copies of the
disclosure statement on the time share plan; and

(2) Amend the renewal process for time share registrations
by:

(A) Permitting the developer to disclose either the
total number of time share interests registered
for sale in each unit or the total number of
points registered for sale in each property;

(B) Eliminating the requirement that developers
provide title insurance and reports; and

(C) Eliminating the requirement that developers file
a financial statement.

SECTION 2. Chapter 514E, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§514E- Disclosure statement; prospective purchasers.

The purchaser of a time share interest shall be provided a copy
of the disclosure statement filed with and accepted by the
director concurrently with the execution of a sales contract.
The disclosure statement shall be provided in printed form
unless the purchaser indicates in a separate writing the
purchaser's election to receive the disclosure statement through
means of a computer disc, electronic mail, download from an
internet site, thumb drive, any other media that may require the
use of a device or a machine to be viewed or heard, or by any
other means contemplated by chapter 489E. The separate writing
shall include, above the signature line in bold type and capital
letters, the following statement: "ANY PURCHASER HAS UNDER THE
LAW A SEVEN-DAY RIGHT OF RESCISSION OF ANY TIME SHARING SALES

Purchasers should read the disclosure statement before the seven-day right of rescission period expires."

SECTION 3. Section 514E-10, Hawaii Revised Statutes, is amended to read as follows:

"§514E-10 Registration required; developer, acquisition agent, plan manager, and exchange agent; registration renewal. (a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director pursuant to the time specified in this chapter, or the development is exempt from filing, and the time share plan to be offered by the developer is accepted by the director for registration under this chapter. The director shall not accept a developer's time share plan if the developer does not possess a history of honesty, truthfulness, financial integrity, and fair dealing.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall register under this chapter by filing with the director a statement setting forth the time sharing plan for which it is providing prospective purchasers, its address, the telephone number, other information required by
the director as provided by rules adopted pursuant to chapter 91, and, if the acquisition agent is not a natural person, the name of the responsible managing employee; provided that an acquisition agent licensed under chapter 467 as a real estate broker shall not be required to register under this chapter. All acquisition agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any acquisition agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The acquisition agent shall furnish evidence that the acquisition agent is bonded as required by rules adopted by the director pursuant to chapter 91 to cover any violation by the acquisition agent of any solicitation ordinance or other regulation governing the use of the premise or premises in which the time share plan is promoted; provided that the acquisition agent shall be separately bonded for each time share plan for which it is providing prospective purchases.

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

(d) An exchange agent (including the developer if it is
also an exchange agent) shall register under this chapter by
filing with the director a statement setting forth the time
sharing plan for which it is offering exchange services, its
principal office address and telephone number, and designate its
responsible managing employee.

(e) Any plan manager or developer registration required in
this section shall be renewed by December 31 of each even-
numbered year, and any acquisition agent or exchange agent
registration required in this section shall be renewed on
December 31 of each odd-numbered year; provided that this
subsection shall not relieve the person required to register
from the obligation to notify the director promptly of any
material change in any information submitted to the director,
nor shall it relieve the developer of its obligation to promptly
file amendments or supplements to the disclosure statement, and
to promptly supply the amendments or supplements to purchasers of time share interests.

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

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

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

(A) The time share units in the time share plan registered pursuant to this chapter; the total number of time share interests registered for sale in each unit pursuant to this chapter; and the total number of time share interests that have not yet been sold as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification; or

(B) The property in the time share plan registered pursuant to this chapter; the total number of points registered for sale in each property
pursuant to this chapter; and the total number of
points in the time share plan that have not yet
been sold as of the date specified in the
developer's certification, which date shall not
be more than sixty days prior to the date of the
developer's certification;

(3) If the developer is a corporation, partnership, joint
venture, limited liability company, or limited
liability partnership, an original certificate of good
standing issued by the business registration division
of the department of commerce and consumer affairs not
more than forty-five days before the date of
submission of the renewal application; and

(4) The biennial renewal fee.

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

(1) A financial statement of the developer; or

(2) A policy of title insurance, a preliminary title
report, abstract of title, or certificate of title on
the units or time share interests in the time share
plan."
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.
Report Title:
Time Share; Disclosure Statement; Electronic Documents; Renewal Registration; Developers

Description:
Allows prospective time share purchasers to receive printed or electronic copies of the disclosure statement. Amends developer registration renewal requirements by: permitting the developer to disclose in its renewal application either the total number of time share interests registered for sale in each unit or the total number of points registered for sale in each property; eliminating the requirement that developers provide title insurance and title reports; and eliminating the requirement that developers file a financial statement. (SD1)

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