

JAN 17 2020

A BILL FOR AN ACT

RELATING TO TIME SHARING.

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

1 SECTION 1. The legislature finds that while existing law
2 provides purchasers of condominiums with the protection of
3 rescission rights when material changes have been made to the
4 disclosure statement after a sales contract becomes binding,
5 there are no laws that provide purchasers of time shares with
6 the protection of rescission rights under similar circumstances.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Require developers to provide a notice to purchasers
9 of time shares of any material change or pertinent
10 change in the information in the current disclosure
11 statement; and
12 (2) Provide purchasers of time shares rescission rights
13 for material changes made to the disclosure statement.

14 SECTION 2. Chapter 514E, Hawaii Revised Statutes, is
15 amended by adding two new sections to be appropriately
16 designated and to read as follows:



1 "§514E-A Rescission due to a material change; sales
2 contract. (a) Purchasers shall have a seven calendar day right
3 to rescind a sales contract for the purchase of a time share
4 interest from a developer if, prior to closing, there is a
5 material change in the plan. This rescission right shall not
6 apply in the event of any additions, deletions, modifications,
7 and reservations, including but not limited to the merger,
8 addition, or phasing of a plan, made pursuant to the terms of
9 the time share instruments.

10 (b) Upon delivery to a purchaser of a description of the
11 material change on a form prescribed by the director from the
12 developer, the purchaser may let the seven-day rescission period
13 expire without exercising the purchaser's right of rescission in
14 accordance with subsection (c), in which case the rescission
15 right shall be terminated.

16 (c) In order to be valid, a rescission form must be signed
17 by all purchasers of the affected time share interest and
18 postmarked no later than midnight of the seventh calendar day
19 after the date that the purchaser received the rescission form
20 from the developer. In the event of a valid exercise of a
21 purchaser's right of rescission pursuant to this section, the



1 purchasers shall be entitled to a prompt and full refund of any
2 moneys paid.

3 (d) The rescission form obtained by the developer under
4 this section shall be kept on file in possession of the
5 developer and shall be subject to inspection at a reasonable
6 time by the director or the director's staff or agents, for a
7 period of three years from the date the receipt or return
8 receipt was obtained.

9 (e) This section shall not preclude a purchaser from
10 exercising any rescission rights pursuant to a contract for the
11 sale of a time share interest or any applicable common law
12 remedies.

13 (f) A purchaser's sale may be closed when the escrow agent
14 receives a statement from the developer stating that at least
15 five days have passed since the purchaser's rescission period
16 under subsection (a) has expired, and the developer has not
17 received from the purchaser a rescission form validly exercising
18 the purchaser's right of rescission pursuant to subsection (c).

19 §514E-B Notice of change. (a) In the event of a
20 pertinent change or a material change to the information
21 required by section 514E-9, until such time as the director



1 accepts an amended disclosure statement disclosing the change,
2 the developer shall provide to each purchaser of a time share
3 interest whose purchase has not yet closed a notice of any such
4 change on a form prescribed by the director. For new sales, the
5 notice of change may be provided with the most recently accepted
6 statement. In all other cases, the notice of change shall be
7 provided by personal delivery or by mail.

8 (b) The developer may continue to sell and to close the
9 sale of time share interests in the time share plan; provided
10 that if the notice of change discloses a material change, the
11 sale may close only when the requirements of section 514E-A(f)
12 have been met."

13 SECTION 3. Section 514E-1, Hawaii Revised Statutes, is
14 amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Material change" means any change to the information
17 required by section 514E-9 and that directly, substantially, and
18 adversely affects the use or value of a purchaser's time share
19 interest or the time share units in the time share plan.



1 "Pertinent change" means a change, other than a material
2 change, to the information required by section 514E-9.

3 "Pertinent change" may include but is not limited to:

4 (1) The annexation of fully constructed time share units
5 located in a component site that has previously been
6 accepted by the director for registration in the time
7 share plan;

8 (2) Any change to the address or telephone number of the
9 developer;

10 (3) Any change to the name, address, or telephone number
11 of the escrow agency, plan manager, any sales agent,
12 any acquisition agent, or any exchange agent;

13 (4) Any change to the name, address, or telephone number
14 of any officers, directors, employees, or agents,
15 including but not limited to responsible managing
16 employees, and agents for service of process, of the
17 developer, escrow agent, plan manager, sales agent,
18 acquisition agent, or exchange agent; and

19 (5) The dismissal of any litigation disclosed in the
20 disclosure statement."



S.B. NO. 2273

1 SECTION 4. In codifying the new sections added by section
 2 2 of this Act, the revisor of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

5 SECTION 5. New statutory material is underscored.

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

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INTRODUCED BY:

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S.B. NO. 2273

Report Title:

Time Sharing; Notice of Material Change; Purchaser Right to Cancel

Description:

Provides purchasers of time shares with rescission rights if there is a material change to the information contained in the disclosure statement. Requires developers to provide notice to the purchaser regarding any pertinent or material change made to the disclosure statement.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

