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# A BILL FOR AN ACT

RELATING TO TIME SHARING PLANS.

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

1 SECTION 1. Section 514E-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Any offering of a time sharing plan to the public  
4 shall disclose:

5 (1) The name and address of the developer and of the time  
6 share units;

7 (2) The name and address of the plan manager, if any, and  
8 a description of the plan manager's responsibilities  
9 and authority;

10 (3) A description of the time share units, including the  
11 developer's schedule for completion of all buildings,  
12 units, and amenities and dates of availability;

13 (4) If the time share plan is located in a condominium  
14 property regime, a description of the project and, if  
15 the purchaser will own an undivided interest in a fee  
16 simple or leasehold condominium unit in the



1           condominium project, a brief description of any  
2           pertinent provisions of the project instruments;  
3           (5) Any restraints on the transfer of the buyer's time  
4           share interest in the time share units or plan;  
5           (6) Whether the time share plan is a time share ownership  
6           plan or a time share use plan, along with a  
7           description of the rights and responsibilities under  
8           said plan;  
9           (7) A statement that there is a seven-calendar-day period  
10          of mutual rescission;  
11          (8) A statement that pursuant to section 514E-11.3, every  
12          sale or transfer, made in violation of this chapter is  
13          voidable at the election of the purchaser;  
14          (9) Notice of any material liens, title defects, or  
15          encumbrances on or affecting the title to the units or  
16          plan[+] and any other lien, title defect, or  
17          encumbrance impacting a purchaser's utilization of the  
18          property, as the director may require. For all other  
19          liens, title defects, and encumbrances, in lieu of  
20          listing these in the disclosure statement, a reference  
21          may be made to a website by way of link or otherwise,



1           wherein these items may be listed and thereby  
2           disclosed, and be available for review along with a  
3           statement that the developer has determined that these  
4           liens, title defects, and encumbrances are not  
5           expected to directly, substantially, and adversely  
6           impact utilization of the property by a purchaser;

7           (10) Notice of any pending or anticipated suits that are  
8                 material to the time share units or plan, of which the  
9                 developer has, or should have, knowledge;

10          (11) The total financial obligation of the purchaser, which  
11                 shall consist of:

12                 (A) A statement that the purchaser is obligated to  
13                         pay the initial price stated in the purchaser's  
14                         purchase agreement; and

15                 (B) A list or description of any additional charges  
16                         to which the purchaser may be subject;

17          (12) An estimate of the dues, maintenance fees, real  
18                 property taxes, and similar periodic expenses, and the  
19                 method or formula by which they are derived and  
20                 apportioned;



1 (13) The disclosure statement under subsection (d), if  
2 applicable; [~~and~~]

3 (14) A list of the primary plan documents.

4 For purposes of this paragraph:

5 "Primary plan documents" means the constituent  
6 documents of the time share plan, including any time  
7 share declaration; any trust agreement; the articles  
8 of incorporation and bylaws of the association, if the  
9 association is a corporation, or the operating  
10 agreement or similar organizational document, if the  
11 association is a limited liability company or other  
12 entity; the rules for reserving the use of the time  
13 share units; and the rules and regulations governing  
14 the occupancy of the time share units. "Primary plan  
15 documents" does not include supplementary plan  
16 documents.

17 "Supplementary plan documents" means any  
18 declaration of annexation, active property  
19 declaration, notice of access, notice of conveyance,  
20 notice of activation, deed conveying property to the  
21 trustee of a time share plan or to the association,



1           and other instruments submitting or committing  
2           property to the time share plan or removing property  
3           from the time share plan. To the extent that any  
4           documents modify the terms and provisions of the time  
5           share plan as established in the existing primary plan  
6           documents, for example, by establishing a new class or  
7           category of time share interest having rights that  
8           differ from existing time share interests in the time  
9           share plan, the documents shall constitute primary  
10          plan documents and shall not constitute supplementary  
11          plan documents; and

12          [~~(14)~~] (15) Other disclosures required by the director, as  
13                  provided by rules adopted pursuant to chapter 91."

14          SECTION 2. Section 514E-10.5, Hawaii Revised Statutes, is  
15          amended to read as follows:

16                "**§514E-10.5 Consultant review of developer filing.** The  
17          director may contract with private consultants in connection  
18          with the review of the filing required of time share developers  
19          pursuant to section 514E-10(a) and ~~[(e)]~~ ~~[(e)]~~. The cost of  
20          contracting private consultants shall be borne by the developer;  
21          provided that the consultant review required under this section



1 shall not affect the scope of the review under section 514E-27  
2 that the director may request for filings that encompass  
3 alternative arrangements for purchaser protection. The  
4 consultant shall be asked to thoroughly review the filing for  
5 the purpose of examining its compliance with the requirements of  
6 this chapter and any rule adopted by the director, including the  
7 documentation and other provided materials~~[=]~~; provided that in  
8 lieu of reviewing copies of all encumbrances on title, the  
9 consultant shall accept a certification from the developer that  
10 the developer has reviewed all encumbrances on title and has  
11 determined that the time share interest being sold is free and  
12 clear of blanket liens or other material encumbrances that may  
13 directly, substantially, and adversely impact utilization of the  
14 property by a purchaser, or if that is not the case, identifying  
15 the blanket liens or other material encumbrances and either  
16 specifying how those encumbrances will be addressed or what the  
17 impact of the encumbrances may be to the purchaser. Upon  
18 completing the review, the consultant shall provide a written  
19 analysis of the filing and an opinion of the nature and extent  
20 to which it complies with this chapter and adopted rules. The  
21 director may adopt rules pursuant to chapter 91 to further



1 delineate the duties of the consultant in undertaking the review  
2 and analysis required pursuant to this section."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6



**Report Title:**

Time Share Plans; Primary Plan Documents; Liens; Disclosure

**Description:**

Clarifies when the disclosure of pertinent provisions of condominium project instruments must occur. Specifies that primary plan documents be listed in the public disclosure statement of a time share plan. Clarifies the manner in which the required disclosure of liens, title defects, or encumbrances on the titles of units may be made. Provides that a consultant's review of encumbrances shall be waived upon the certification from the developer that the time share interest is free and clear of blanket liens or that identifies all blanket liens. (CD1)

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