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# 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 the State's time  
2 share law was adopted by the legislature in 1980. At the time,  
3 there was considerable concern over where in the State time  
4 sharing should be permitted. In particular, there was concern  
5 over whether the introduction of time sharing in residential  
6 areas such as Hawaii Kai or Kailua would be disruptive to the  
7 residential character of those neighborhoods.

8           The legislature further finds that to address this concern,  
9 the 1980 time share law required that the counties amend their  
10 zoning ordinances to designate areas appropriate for time  
11 sharing and transient vacation rentals. The 1980 time share law  
12 also prohibited time sharing and transient vacation rentals in  
13 areas not zoned for time sharing.

14           The legislature additionally finds that to enforce the  
15 zoning requirements for time sharing and transient vacation  
16 rentals, the regulations adopted by the department of commerce  
17 and consumer affairs require that developers submit a written  
18 confirmation of county zoning form. This form must be signed by



1 the county where the time share units are located and is  
2 intended to confirm that the time share plan meets statutory  
3 zoning limitations.

4 The legislature notes that the State's time share law was  
5 intended to address only the zoning of Hawaii property and not  
6 apply to non-Hawaii property. The 1980 time share law does not  
7 attempt to impose or enforce the zoning requirements applicable  
8 to out-of-state time share units, nor does the law require that  
9 developers submit evidence that out-of-state time share units  
10 comply with the zoning laws where the time share units are  
11 located.

12 The purpose of this Act is to clarify that, for out-of-  
13 state time share units, a developer is responsible for ensuring  
14 that the use of units for time sharing purposes complies with  
15 the zoning and land use laws and rules of the jurisdiction where  
16 the time share units are located and that it is not necessary  
17 for the developer to submit evidence of such compliance as part  
18 of the registration process.

19 SECTION 2. Section 514E-10, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "§514E-10 Registration required; developer, acquisition  
2 agent, plan manager, and exchange agent; registration renewal.

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

12       (b) An acquisition agent (including the developer if it is  
13 also the acquisition agent) shall register under this chapter by  
14 filing with the director a statement setting forth the time  
15 sharing plan for which it is providing prospective purchasers,  
16 its address, the telephone number, other information required by  
17 the director as provided by rules adopted pursuant to chapter  
18 91, and, if the acquisition agent is not a natural person, the  
19 name of the responsible managing employee; provided that an  
20 acquisition agent licensed under chapter 467 as a real estate  
21 broker shall not be required to register under this chapter.



1 All acquisition agents not licensed under chapter 467 shall be  
2 approved by the director. The director shall not approve any  
3 acquisition agent who is not of good character and who does not  
4 possess a reputation for honesty, truthfulness, and fair  
5 dealing. The acquisition agent shall furnish evidence that the  
6 acquisition agent is bonded as required by rules adopted by the  
7 director pursuant to chapter 91 to cover any violation by the  
8 acquisition agent of any solicitation ordinance or other  
9 regulation governing the use of the premise or premises in which  
10 the time share plan is promoted; provided that the acquisition  
11 agent shall be separately bonded for each time share plan for  
12 which it is providing prospective purchases.

13 (c) A plan manager (including the developer if it is also  
14 the plan manager) shall register under this chapter by filing  
15 with the director a statement setting forth the time sharing  
16 plan that it is managing, its principal office address,  
17 telephone number, and responsible managing employee. The plan  
18 manager shall furnish evidence that the plan manager is bonded  
19 as required by rules adopted by the director pursuant to chapter  
20 91 to cover any default of the plan manager and any of its  
21 employees of their duties and responsibilities; provided that



1 the plan manager shall be separately bonded for each time share  
2 plan under the management of the plan manager.

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

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



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

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

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

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

18 (B) The property in the time share plan registered  
19 pursuant to this chapter; the total number of  
20 points registered for sale in each property  
21 pursuant to this chapter; and the total number of



1 points in the time share plan that have not yet  
2 been sold as of the date specified in the  
3 developer's certification, which date shall not  
4 be more than sixty days prior to the date of the  
5 developer's certification;

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

13 (4) The biennial renewal fee.

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

17 (1) A financial statement of the developer; or

18 (2) A policy of title insurance, a preliminary title  
19 report, abstract of title, or certificate of title on  
20 the units or time share interests in the time share  
21 plan.



1        (h) A developer's application for registration or  
2 annexation shall include:

3        (1) A list of the projects containing the time share units  
4 that are included in the application and that are  
5 located outside the State; and

6        (2) A statement by the developer that it has verified that  
7 the use of each of those out-of-state time share units  
8 for time sharing purposes in the manner contemplated  
9 by the developer's time share plan is either in  
10 compliance with or not prohibited by the zoning and  
11 land use laws and regulations of the jurisdiction  
12 where the time share units are located.

13 The developer shall not be required, as part of the developer  
14 registration, to submit any other evidence that the use of out-  
15 of-state time share units for time sharing purposes in the  
16 developer's time share plan is either in compliance with or not  
17 prohibited by the zoning and land use laws and regulations of  
18 the jurisdiction where the time share units are located."

19        SECTION 3. New statutory material is underscored.

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





**Report Title:**

Time Sharing; Time Share; Out-of-State Time Share Units; Zoning Requirements

**Description:**

Requires a developer's application for registration or annexation to include a list of projects containing out-of-state time share units and a statement that the developer has verified that those units are in compliance or not prohibited under the laws of the jurisdiction where the units are located.

Clarifying that a developer is not required to submit any other evidence of such compliance to register in Hawaii. (CD1)

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

