

OWNING OR BUYING A TIME SHARE IN HAWAII

What is time share? A time share is an interest in vacation property. Instead of buying the property for yourself, you're paying a share of the price and buying a slice of time when you can use the property each year. The rest of the year, other people, who have also purchased shares, use the property. The length of time (or interval) of your stay depends on your share. For example, a 1/52 share gets you a one week interval per year.



Know who you're dealing with. Some time shares are sold by developers. Sales can also be conducted by companies who specialize in time share sales, so be sure you're clear on who you're dealing with.

Be clear on what the interest is that's being sold. A time share plan can be **deeded** (where the purchaser receives an ownership interest) or **non-deeded** (sometimes called "right-to-use" plans, where the purchaser receives a right to use accommodations but no ownership interest). There are also **vacation clubs** (organizations that own properties in different locations and allow you, as a club member, to reserve space at club properties); **points programs** (where purchasers buy a specified number of points that can be exchanged for accommodations at properties owned or managed by the program); and **exchange programs** (where time share owners pool their intervals and trade with other program members). Be sure to ask if your ownership interest includes access to all of the amenities a property may offer (for example, the fitness room).

Ask about additional costs. In addition to the initial price, you may be required to pay **annual fees** to cover maintenance costs. You may also be responsible for **utilities** and **taxes**. If the property needs major improvements or repairs, you may be assessed additional fees to cover the costs.

Do your homework. Familiarize yourself with the property as a whole, because as an owner, you'll be responsible for its upkeep. Again, if the property is in need of major improvements or repairs, you may be assessed additional fees to cover the costs.

Incentives and promotions. A time share developer or someone who is marketing on behalf of a time share developer, may offer entertainment, prizes or other gifts to try to get you to attend a sales presentation. If you are required to attend a sales presentation in order to claim the prize or gift, the sales agent must provide you with a **written disclosure** with (1) a full description of the exact prize or gift, including its cash value; (2) the terms and conditions attached to the prize or gift; (3) a statement that you must attend a sales presentation; and (4) information about the time share project to be offered for sale, including the type of ownership (deeded or non-deeded), and price ranges. If you attend a presentation, you have the right to receive any promotional device promised. Remember, you're under no obligation to commit, even if you received an incentive or promotion.

Get the facts. As a purchaser, you are entitled to **true and accurate information of all material facts** about the time share interest in question. This includes: (1) the amount of time or period of time the unit will be available to you; (2) the location or locations of the offered time share unit; (3) its size, nature, extent, qualities and characteristics; (4) the nature or extent of any services incident to the time share unit (for example, housekeeping services); and (5) the conditions under which a purchaser may exchange occupancy rights between units in different locations.

Get it in writing. Hawaii law requires time share sellers put certain disclosures in writing.

Any disclosures you receive should include:

- ✓ The **name and address** of the time share plan and the person or company developing the plan, and the name and address of any plan manager, along with a description of his or her duties and authority
- ✓ A **description of the time share units**, including the developer's schedule for completion of all buildings, units and amenities, and dates of their availability
- ✓ A **description of the condominium property regime** and any pertinent provisions of the condominium project instruments
- ✓ A description of any **limitations or conditions** on the transfer of a buyer's time share interest

- ✓ A statement whether the time share plan is an **ownership plan (deeded)** or a **use plan (non-deeded)**, along with a description of a buyer's rights and responsibilities under any use plan
- ✓ A statement there is a **seven (7) calendar day period of mutual rescission**
- ✓ A statement that **every sale or transfer made in violation of Chapter 514E, HRS, is voidable** at the election of the purchaser
- ✓ A **notice of any liens, title defects, or encumbrances** on or affecting the title to the units or plan
- ✓ A notice of any pending or anticipated material **suits** the developer should have knowledge of
- ✓ A statement of the **total financial obligation of the purchaser, including the initial price that's stated in the purchase contract and any additional charges**
- ✓ An **estimate of any dues, maintenance fees, real property taxes, or similar periodic expenses**, and how they were computed

How to exercise your seven day right of rescission. Under Hawaii law, you have the right to cancel a contract (1) within seven calendar days after the execution of the contract, or (2) within seven calendar days after you received the required disclosure statement, whichever occurs later. Notice of cancellation must be **mailed or delivered** to the other party at the address specified on the contract. The notice of cancellation is **effective upon mailing or delivery**. If mailing, consider sending it certified mail and ask for a return receipt so you know when it was received. Under Hawaii law, failing to honor a valid notice of cancellation constitutes an **unfair or deceptive trade practice**.

Remember:

- **Don't feel rushed.** You're under no obligation to commit, even if you received an incentive or promotion.
- If the property is not developed, get a written statement when facilities will be finished as promised. Under certain circumstances, a developer can use monies for construction costs or take money out of escrow if it appears construction will be completed.
- **READ** all documents related to the sale before you sign. **ASK** an attorney to explain any terms you don't readily understand. **TAKE** the documents with you especially information about the seven day right of rescission. **DON'T** have disclosure statements or any information about how to cancel a purchase mailed to your home.
- Refinancing a time share purchase is not like refinancing your house. Like buying a new car, you may want to talk to a bank about financing before you buy.

This brochure briefly discusses Hawaii laws which may apply if the time share unit is in Hawaii or was sold in Hawaii.

RESOURCES

The Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), offer tools, tips and services you can use to check out an individual or business. Information is available by calling **(808) 587-4272** or online at cca.hawaii.gov/rico/business_online/.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at **(808) 587-4272** or visit us online at cca.hawaii.gov/rico/.

To call Oahu-RICO, dial the following toll free numbers: Kauai 274-3141, extension 74272; Maui 984-2400, extension 74272; Big Island 974-4000, extension 74272; Molokai and Lanai 1-800-468-4644, extension 74272, followed by the # sign.

Go to: cca.hawaii.gov/rico/business_online/ Checking out a licensee or business on these sites isn't a guarantee, but it's a good step to take that can help you to determine if the licensee or business is qualified to handle your particular job. It's also one of several steps you can take to protect yourself against unscrupulous or unqualified people.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at (808) 586-2666.