



HAWAII VACATION OWNERSHIP FAXLETTER

An Update on Vacation Ownership Issues in Hawaii

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BILL 48: SEPARATE REAL PROPERTY TAX CATEGORY

The City and County of Honolulu recently introduced a bill that would create a separate real property tax category for time shares. Bill 48 amends Section 8-7.1 of the Revised Ordinances of Honolulu 1990. Bill 48 passed first reading on July 6, 2005, and was heard by the Budget Committee on July 27, 2005. Bill 48 is now scheduled to be heard by the full Council on Wednesday, August 10, 2005 at Kapolei. The entire text of this measure can be obtained at http://www4.honolulu.gov/docushare/dsweb/Get/Document-35589/0m83x7_m.pdf. The status of Bill 48 can be monitored at <http://www4.honolulu.gov/docushare/dsweb/View/Collection-546>.

CR 328: ADVERTISEMENT REQUIREMENT FOR TRANSIENT VACATION UNIT

On July 6, 2005 the City Council of Honolulu adopted CR 328. CR 328, first introduced as Resolution 05-186, and subsequently amended to form Resolution 05-186 (CD1), amends Section 21-5.640 of the Revised Ordinances of Honolulu 1990. The measure provides that the owner, operator or proprietor of a transient vacation unit that does not require a nonconforming use certificate and is a permitted use in a resort or A-2 medium density apartment district shall include, in any advertisement for the unit, the street address of the transient vacation unit. The entire text of this measure can be obtained at <http://www4.honolulu.gov/docushare/dsweb/Get/Document-36025/0n9g1755.pdf>.

UPDATE ON TIME SHARE BILLS FROM 2005 LEGISLATIVE SESSION

In our May 2005 fax letter, we updated you on four bills that were transmitted for signing to Governor Linda Lingle. On May 27, 2005, the Governor signed three of those bills into law, specifically House Bills 835, 785, and 155. These bills became Acts 81, 82, and 83, respectively. The following is a summary of these bills.

New and Amended Definitions for the Time Share Act

House Bill 155 amends the Time Share Act to re-define the terms "Master Development," "Person," and "Developer." Further information regarding House Bill 155 can be found in our May 2005 fax letter at <http://www.imanakakudo.com/pdfs/hawaii/vacation/hvo-v5n2.pdf>. The entire text of this measure can be obtained at http://www.capitol.hawaii.gov/sessioncurrent/bills/hb155_sd1_.htm.

Gift and Prize Disclosure Requirements; Signage

House Bill 835 narrows the gift and prize disclosure requirements relating to time shares. It requires disclosure of all material terms and conditions attached to a prize or gift offered to a prospective purchaser as part of any time share advertising or sales promotion plan. The measure also amends the content requirements of a time share sign and the places in which a sign may be posted.

House Bill 835 also allows developers to accept money from purchasers or prospective purchasers prior to signing a contract or reservation agreement for a purchase of a time share plan or unit when the money is payment for tourist activities, or for products and/or services that are being offered to induce attendance at a time share sales presentation. The entire text of this measure can be obtained at http://www.capitol.hawaii.gov/sessioncurrent/bills/hb835_sd1_.htm.

Mortgage Foreclosures of Time Share Interests

House Bill 785 adds five new sections to the Mortgage Broker Act. The new sections have a scheduled effective date of January 1, 2006. The Bill authorizes the nonjudicial foreclosure of time share interests under the power of sale when the following conditions are met:

- (1) The notice of intention to foreclose the mortgage is sent to the mortgagor at the mortgagor's last known address, for those mortgagors whose address is within the United States the notice of intention must be sent certified mail with the return receipt requested; and
- (2) Three publications, once in each of three successive weeks and the last publication meeting certain requirements, in a newspaper of general circulation in the county in which the mortgaged time share interest lies.

This measure also regulates the day and notice requirements of the sale of time share interests, as well as post-sale notice and affidavit requirements. The entire text of this measure can be obtained at http://www.capitol.hawaii.gov/sessioncurrent/bills/hb785_cd1_.htm.

SYMPOSIUM: "HAWAIIAN TIMESHARE – MYTH VERSUS REALITY"

On July 14, 2005, a symposium themed "Hawaiian Timeshare – Myth vs. Reality" was held. It focused on the time share industry and dispelling the misunderstandings held in regards to it. The interactive presentation included experts from the hotel and time share industries, economists, tax experts, and policy makers. Session moderator, Howard Nusbaum, detailed the following misconceptions regarding time shares in Hawaii:

- (1) Time share growth diminishes Hawaiian Convention business and has a negative impact on jobs and in general weakens the Hawaiian economy.
- (2) Time shares are not paying its share of tourist accommodation taxes when compared to hotels.
- (3) The time share industry does not benefit the community because of the belief that time share owners do not spend money in the community as compare to hotel guests.

Speaker Joe Toy also presented on "Time share Conversions – Myth vs. Reality." He emphasized that in reality not very many time shares are being converted, time share conversions are not a threat to Hawaii Convention business, and most time shares created by large hoteliers are designed as multi-use (part time share and part rentable units), thus time shares arguably expand, rather than diminish, the availability of lodging for convention business.

'A'ohē pilo uku
No reward is a trifle.
Even a small gift is appreciated.

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