



GOV. MSG. NO. 745

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

June 17, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 17, 2009, the following bill was signed into law:

HB876 HD1 SD2 CD2

A BILL FOR AN ACT  
RELATING TO CONDOMINIUMS.  
ACT 128 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on JUN 17 2009

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**ACT 128**

**H.B. NO.** 876  
H.D. 1  
S.D. 2  
C.D. 2

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## A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-142, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3 "[+]§514B-142[+] Aging in place[+] or disabled; limitation  
4 on liability. (a) The association, its directors, unit owners,  
5 or residents, and their agents and tenants, acting through the  
6 board, shall not have any legal responsibility or legal  
7 liability, with respect to any actions and recommendations the  
8 board takes on any report, observation, or complaint made, or  
9 with respect to any recommendation or referral given, which  
10 relates to an elderly or disabled unit owner or resident who[+]  
11 may require services and assistance to maintain independent  
12 living in the unit in which the elderly or disabled unit owner  
13 or resident resides, so that the elderly or disabled unit owner  
14 or resident will not pose any harm or health or safety hazards  
15 to self or to others, and will not otherwise be disruptive to  
16 the condominium community because of [~~the following~~] problems of  
17 aging and aging in place[+] or living independently with a



1 physical or mental disability or disabling condition. This  
2 section shall apply to elderly or disabled unit owners or  
3 residents whose actions or non-actions pose a risk to their own  
4 health or safety or to the health and safety of others, cause  
5 harm to the resident or others, or where physical or mental  
6 abuse may be life-threatening, and who exhibit the following  
7 characteristics:

- 8 (1) The inability to clean and maintain an independent  
9 unit;
- 10 (2) Mental confusion;
- 11 (3) Abusing others;
- 12 (4) Inability to care for oneself; or
- 13 (5) Inability to arrange for home care[+  
14 ~~(6) Loneliness and neglect; or~~  
15 ~~(7) Inappropriate requests of others for assistance.~~

16 ~~For purposes of this section, "elderly" means age sixty two and~~  
17 ~~elder].~~

18 (b) Upon a report, observation, or complaint relating to  
19 an elderly or disabled unit owner or resident aging or aging in  
20 place or living independently with a physical or mental  
21 disability or disabling condition, which notes a problem similar  
22 in nature to the problems enumerated in subsection (a), the



1 board, in good faith, and without legal responsibility or  
2 liability, may request a functional assessment regarding the  
3 condition of an elderly or disabled unit owner or resident as  
4 well as recommendations for [~~the~~] services from mental health or  
5 medical practitioners, governmental agencies responsible for  
6 adult protective services, or non-profit or for-profit service  
7 entities which the elderly or disabled unit owner or resident  
8 may require to maintain a level of independence that enables the  
9 owner or resident to avoid any harm to self or to others, and to  
10 avoid disruption to the condominium community[~~-~~]; provided that  
11 when a functional assessment is requested by the board, the unit  
12 owner or resident shall be deemed to be the client of the person  
13 or entity conducting the functional assessment. The board, upon  
14 request or unilaterally, and without legal responsibility or  
15 liability, may recommend available services, including  
16 assistance from state or county agencies and non-profit or for-  
17 profit service entities, to an elderly or disabled unit owner or  
18 resident which [~~might~~] may enable the elderly or disabled unit  
19 owner or resident to maintain a level of independent living with  
20 assistance, enabling in turn, the elderly or disabled unit owner  
21 or resident to avoid any harm to self or others, and to avoid  
22 disruption to the condominium community.



1 (c) There is no affirmative duty on the part of the  
2 association, its board, the unit owners, or residents, or their  
3 agents or tenants to request or require an assessment and  
4 recommendations with respect to an elderly or disabled unit  
5 owner or resident when the elderly or disabled unit owner or  
6 resident may be experiencing the problems related to aging and  
7 aging in place or living independently with a physical or mental  
8 disability or disabling condition enumerated in subsection (a).  
9 The association, its board, unit owners, or residents, and their  
10 agents and tenants shall not be legally responsible or liable  
11 for not requesting or declining to request a functional  
12 assessment of, and recommendations for, an elderly or disabled  
13 unit owner or resident regarding problems relating to aging and  
14 aging in place[-] or living independently with a physical or  
15 mental disability or disabling condition.

16 (d) If an elderly or disabled unit owner or resident  
17 ignores or rejects a request for or the results from an  
18 assessment and recommendations, the association, with no  
19 liability for cross-claims or counterclaims, may file  
20 appropriate information, pleadings, notices, or the like, with  
21 appropriate state or county agencies or courts to seek an



1 appropriate resolution for the condominium community and for the  
2 elderly or disabled unit owner[-] or resident.

3 (e) For the purposes of this section:

4 "Elderly" means age sixty-two and older.

5 "Disabled" means a physical or mental impairment that  
6 substantially limits one or more major life activities; a record  
7 of such an impairment; or being regarded as having such an  
8 impairment.

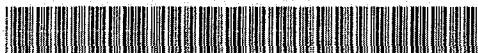
9 [~~e~~] (f) Costs and fees for assessments, recommendations,  
10 and actions contemplated in this section shall be as set forth  
11 in the declaration or bylaws.

12 [~~f~~] (g) This section shall not be applicable to any  
13 condominium that seeks to become licensed as an assisted living  
14 facility pursuant to title 11, chapter 90, Hawaii Administrative  
15 Rules, as amended."

16 SECTION 2. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun, before its effective date.

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

21 SECTION 4. This Act shall take effect on July 1, 2009.



H.B. NO. 876  
H.D. 1  
S.D. 2  
C.D. 2

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APPROVED this 17 day of JUN, 2009



GOVERNOR OF THE STATE OF HAWAII