
A BILL FOR AN ACT

RELATING TO REAL ESTATE SELLER DISCLOSURE.

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

1 SECTION 1. The legislature finds that the Hawaii real
2 estate seller disclosure law, codified as chapter 508D, Hawaii
3 Revised Statutes, imposes a duty upon sellers to act in good
4 faith and disclose in writing all material facts affecting the
5 seller's property that are within the knowledge or control of
6 the seller. Act 186, Session Laws of Hawaii 2013, amended
7 chapter 508D, Hawaii Revised Statutes, and was intended to
8 establish a uniform standard for disclosure for condominium
9 projects, cooperative housing corporations, and other community
10 associations and, in particular, to ensure that buyers would
11 have full disclosure of community or association rules that may
12 impact their use of the property. Act 186 provided a limitation
13 on the seller's duty to act in good faith and disclose all
14 material facts by providing that if sellers provided buyers the
15 listed items, including unrecorded rules or guidelines issued by
16 entities that manage the association or corporation, the seller



1 would have been deemed to have made all material disclosures
2 required under the statute.

3 Accordingly, the purpose of this Act is to clarify that the
4 required disclosure of documents by a seller for residential
5 real property that is subject to restrictions or conditions on
6 use applies to documents relating to restrictions or conditions
7 within a seller's knowledge or control.

8 SECTION 2. Section 508D-3.5, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) If the residential real property is otherwise subject
11 to restrictions or conditions on use, either because of
12 covenants contained in the deed for the property or because of
13 another recorded document, the disclosure shall also include all
14 documentation relating to any restrictions or conditions~~[7]~~ that
15 the seller has knowledge about, should have knowledge about, is
16 under the seller's control, or should have been under the
17 seller's control, including but not limited to any unrecorded
18 rules or guidelines that may have been issued by any entity
19 responsible for enforcing those restrictions or guidelines. Any
20 documents subject to section 514B-154.5 shall be considered to
21 be within the seller's control."



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 Statutory material to be repealed is bracketed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

3 SECTION 4. This Act shall take effect on November 1, 2015.



Report Title:

Real Estate; Seller Disclosure Requirements; Required Documentation

Description:

Clarifies that the required disclosure of documents relating to restrictions or conditions including unrecorded rules or guidelines by a seller for residential real property that is subject to restrictions or conditions on use applies to documents relating to restrictions or conditions within a seller's actual or constructive knowledge or control and all documents subject to disclosure under section 514B-154.5, Hawaii Revised Statutes. (SB17 HD2)

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