A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

SECTION 1. The legislature finds that a unified state investment in infrastructure is necessary to facilitate compact, mixed-use, and accessible development near transit stations and public transportation nodes. Such strategic investment can facilitate the development of public and private lands to revitalize neighborhoods and increase affordable housing inventory, among other public benefits.

The purpose of this Act is to ensure public benefits are realized when state resources and authorities facilitate condominium development.

SECTION 2. Section 514B-95, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Sixty-day period" or "sixty days" means sixty full consecutive calendar days, including up to midnight on the sixtieth day.
"State investment" means the use of state funds or state development powers to facilitate the development of property for residential use."

SECTION 3. Section 514B-95.5, Hawaii Revised Statutes, is amended to read as follows:

"§514B-95.5 Announcement or advertisement; publication. At least once in each of two successive weeks, and at any time following the issuance of an effective date of the first developer's public report for the condominium project, the developer shall cause to be published in at least one newspaper published daily in the State with a general circulation in the county in which the project is to be located, and, if the project is located other than on the island of Oahu, in at least one newspaper that is published at least weekly in the county in which the project is to be located, an announcement or advertisement containing at least the following information:

(1) The location of the project;

(2) The minimum price of the residential units;

(3) A designation as to whether the residential units are to be sold in fee simple or leasehold;
(4) A statement that for a thirty-day period following the initial date of sale of the condominium project, at least fifty per cent of the residential units being marketed shall be offered only to prospective owner-occupants[+] or, in the case of a state investment project located within a county-designated transit-oriented development area or within a one-half-mile radius of a public transit station, if that area has not been designated as a transit-oriented development zone, for a sixty-day period following the initial date of sale of the project, one hundred per cent of the residential units being marketed shall be offered only to prospective owner-occupants;

(5) The name, telephone number, and address of the developer or other real estate broker designated by the developer that an interested individual may contact to secure an owner-occupant affidavit, developer's public report, and any other information concerning the project; and
(6) If applicable, a statement that the residential units will be offered to prospective purchasers through a public lottery."

SECTION 4. Section 514B-96, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The developer of any project containing residential units shall designate at least fifty per cent of the units for sale to prospective owner-occupants pursuant to section 514B-98[;]; provided that in the case of a state investment project located within a county-designated transit-oriented development area or within a one-half-mile radius of a public transit station, if that area has not been designated as a transit-oriented development zone, one hundred per cent of the units being sold shall be offered for sale only to prospective owner-occupants. The designation shall be set forth either in the developer's public report or in the announcement or advertisement required by section 514B-95.5, and may be set forth in both. The units in a project with fifty per cent designated units shall constitute a proportionate representation of all the residential units in the project with regard to
factors of square footage, number of bedrooms and bathrooms, 
floor level, and whether or not the unit has a lanai."

SECTION 5. Section 514B-96.5, Hawaii Revised Statutes, is 
amended to read as follows:

"[§]514B-96.5[+]) Unit selection; requirements. (a) When 
the chronological system is used, the developer or the 
developer's real estate broker, as the case may be, shall offer 
the residential units that have been designated pursuant to 
section 514B-96 as follows:

(1) For thirty days from the date of the first published 
announcement or advertisement required under section 
514B-95.5, or, in the case of a state investment 
project located within a county-designated transit-
oriented development area or within a one-half-mile 
radius of a public transit station, if that area has 
not been designated as a transit-oriented development 
zone, for sixty days from the date of the first 
published announcement or advertisement required under 
section 514B-95.5, the developer or developer's real 
estate broker shall offer the residential units that 
have been designated pursuant to section 514B-96 to
prospective purchasers chronologically in the order in which they submit to the developer or the developer's real estate broker, a completed owner-occupant affidavit, an executed sales contract or reservation, and an earnest money deposit in a reasonable amount designated by the developer. The developer or the developer's real estate broker shall maintain at all times a sufficient number of sales contracts and affidavits for prospective owner-occupants to execute and shall make them first available to prospective owner-occupants on the day immediately following the date of the first publication of the announcement or advertisement for the duration of the time period as specified in this paragraph. Prospective purchasers who do not have the opportunity to select a residential unit during the thirty-day applicable period shall be placed on a back-up reservation list in the order in which they submit a completed owner-occupant affidavit and earnest money deposit in a reasonable amount designated by the developer;
(2) If two or more prospective owner-occupants intend to reside jointly in the same residential unit, only one residential unit designated pursuant to section 514B-96 shall be offered to them, or only one of them shall be placed on the backup reservation list;

(3) No developer, employee or agent of the developer, or any real estate licensee, either directly or through any other person, shall release any information or inform any prospective owner-occupant about the publication announcement or advertisement referred to in section 514B-95.5, including the date it is to appear and when the chronological system will be initiated, until after the announcement or advertisement is published; provided that a developer, as part of any preregistration solicitation permitted under section 514B-85, may disclose whether units will be offered to owner-occupants pursuant to this subpart and whether a chronological or lottery system will be used; and

(4) The developer shall compile and maintain a list of all prospective purchasers that submit a completed owner-
occupant affidavit, an executed sales contract or reservation, and an earnest money deposit, and maintain a back-up reservation list, if any. Upon the request of the commission, the developer shall provide a copy of the list of all prospective purchasers and the back-up reservation list.

(b) When the public lottery system is used, the developer or the developer's broker, as the case may be, shall offer the residential units that have been designated pursuant to section 514B-96 as follows:

(1) From the date of the first published announcement or advertisement required under section 514B-95.5 until five calendar days after the last published announcement or advertisement, the developer or developer's real estate broker shall compile and maintain a list of all prospective owner-occupants who have submitted to the developer or the developer's real estate broker a duly executed owner-occupant affidavit. All prospective owner-occupants on this list shall be included in the public lottery described in paragraph (2). The developer and the developer's
real estate broker shall maintain at all times sufficient copies of affidavits for prospective owner-occupants to execute and shall make them first available to prospective owner-occupants on the day immediately following the date of the first publication of the announcement or advertisement for the duration of the time period as specified in this subsection. Upon the request of the commission, the developer shall provide a copy of the lottery list of prospective owner-occupants;

(2) The developer or developer's real estate broker shall conduct a public lottery on the date, time, and location as set forth in the published announcement, or advertisement. The lottery shall be held no later than the thirtieth day following the date of the first published announcement or advertisement[\(\ldots\)]; or, in the case of a state investment project located within a county-designated transit-oriented development area or within a one-half-mile radius of a public transit station, if that area has not been designated as a transit-oriented development zone, no later than the
sixtieth day following the date of the first published
announcement or advertisement. Any person, including
all prospective owner-occupants eligible for the
lottery, shall be allowed to attend the lottery;
(3) The public lottery shall be conducted so that no
prospective owner-occupant shall have an unfair
advantage and, as to all owner-occupants whose
affidavits were submitted to the developer or the
developer's real estate broker within the time period
specified in paragraph (1), shall be conducted without
regard to the order in which the affidavits were
submitted. If two or more prospective owner-occupants
intend to reside jointly in the same residential unit,
only one of them shall be entitled to enter the public
lottery; and
(4) After the public lottery, each prospective owner-
occupant purchaser, in the order in which they are
selected in the lottery, shall be given the
opportunity to select one of the residential units
that have been designated pursuant to section 514B-96,
execute a sales contract, and submit an earnest money
deposit in a reasonable amount designated by the developer. The developer shall maintain a list, in the order of selection, of all prospective purchasers selected in the lottery, and maintain a list of all prospective purchasers who selected one of the residential units designated pursuant to section 514B-96. Prospective purchasers selected in the lottery who did not have the opportunity to select one of the residential units designated pursuant to section 514B-96, but who submitted an earnest money deposit in a reasonable amount designated by the developer, shall be placed on a back-up reservation list in the order in which they were selected in the public lottery. Upon request of the commission, copies of the lists shall be submitted."

SECTION 6. Section 514B-98, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For a thirty-day period following the initial date of sale of units in a condominium project, at least fifty per cent of the units being sold shall be offered for sale only to prospective owner-occupants; provided that notwithstanding this
subpart, in the case of a project that includes one or more existing structures being converted to condominium status, each residential unit contained in the project first shall be offered for sale to any individual occupying the unit immediately prior to the conversion and who submits an owner-occupant affidavit and an earnest money deposit in a reasonable amount designated by the developer; provided further that notwithstanding this subpart, in the case of a state investment project located within a county-designated transit-oriented development area or within a one-half-mile radius of a public transit station, if that area has not been designated as a transit-oriented development zone, for a sixty-day period following the initial date of sale of units in a condominium project, one hundred percent of the units being sold shall be offered for sale only to prospective owner-occupants."

SECTION 7. Section 514B-99.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This subpart shall not apply to:

(1) A project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 201H, 206, 346, or 356D;

provided that the developer of the project may elect
to be subject to this subpart through a written notification to the commission; provided that if the state investment project is located within a county-designated transit-oriented development area or within a one-half-mile radius of a public transit station, if that area has not been designated as a transit-oriented development zone, the developer shall not waive the provisions of sections 514B-95.5, 514B-96(a), 514B-96.5, and 514B-98(b);

(2) Condominium projects where the developer conveys all of the residential units in the project to a spouse, or family members related by blood, descent or adoption; and

(3) Condominium projects consisting of two or fewer units."

SECTION 8. This Act shall not affect rights, duties, and obligations that have matured through a signed contract or disclosure by way of a preliminary offering statement filed with the real estate commission before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 10. This Act shall take effect upon its approval.

INTRODUCED BY: [Signature]

JAN 24 2019
Report Title:
Condominium Sales; Owner-Occupants; State Investments; Transit-Oriented Development

Description:
Restricts sales of residential condominiums developed with state investment within a transit-oriented area to only owner-occupants for 60 days after the initial date of sale for the project.

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