
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Act 181, Session Laws of Hawaii 2017, is
2 amended by amending section 45 to read as follows:
3 "SECTION 45. Condominium property regimes created prior to
4 July 1, 2006, that were issued an effective date pursuant to
5 ~~[section]~~ sections 514A-40 and 514A-41, Hawaii Revised Statutes,
6 may be sold on or after January 1, 2019, without revising any of
7 the governing documents; provided that the developer's public
8 report was active ~~[on January 1, 2019, and is]~~, non-expired, and
9 accurate [and not misleading. On] between January 1, 2019, ~~[all~~
10 ~~active, non-expired chapter 514A, Hawaii Revised Statutes,~~
11 ~~developer's public reports]~~ and July 1, 2020, pursuant to
12 sections 514A-40 and 514A-41, Hawaii Revised Statutes, along
13 with their most recent disclosure abstract, if any, will be
14 treated as non-expiring developer's public reports under part IV
15 of chapter 514B, Hawaii Revised Statutes. Chapter 514A, Hawaii
16 Revised Statutes, developer's public reports shall be treated as
17 non-expiring chapter 514B, Hawaii Revised Statutes, developer's
18 reports on the first day their respective report was accurate



1 and had an active effective date between January 1, 2019, and
 2 July 1, 2020. Should any pertinent or material changes, or
 3 both, occur to the condominium project, the developer shall file
 4 ~~[an amended]~~ a developer's public report superseding all prior
 5 reports pursuant to ~~[chapter 514B,]~~ section 514B-56, Hawaii
 6 Revised Statutes; provided that such projects and their
 7 subsequent reports filed under chapter 514B, Hawaii Revised
 8 Statutes, shall be exempt from the conversion requirements under
 9 section 514B-84(a)(1) and (2), Hawaii Revised Statutes.

10 ~~[Condominium]~~ On July 1, 2020, condominium property regimes
 11 created prior to July 1, 2006, that were not issued an effective
 12 date pursuant to sections 514A-40 and 514A-41, Hawaii Revised
 13 Statutes, ~~[and]~~ did not file a notice of intent pursuant to
 14 section 514A-1.5(2)(B), Hawaii Revised Statutes, or have
 15 effective dates expired prior to January 1, 2019, shall revise
 16 their governing documents and register under chapter 514B,
 17 Hawaii Revised Statutes, for a developer to offer for sale or to
 18 sell condominiums.

19 A condominium property regime registered under chapter
 20 514A, Hawaii Revised Statutes, shall not be required to revise
 21 its governing documents to comply with chapter 514B, Hawaii



1 Revised Statutes, for sales of time share interests to be made
2 in the condominium property regime.

3 Nothing contained in this Act or in the condominium
4 property act shall be deemed to invalidate any condominium
5 property regime that was validly created under chapter 514A,
6 Hawaii Revised Statutes, prior to July 1, 2006."

7 SECTION 2. Notwithstanding section 2 of Act 181, Session
8 Laws of Hawaii 2017, and subject to section 3 of this Act, the
9 following sections of chapter 514A, Hawaii Revised Statutes,
10 shall remain operative in the form in which they read on
11 December 31, 2018, until June 30, 2020, for the sole purpose of
12 providing developers with sufficient time to update their
13 developer's public reports and associated documents in order to
14 qualify for the safe harbor provisions of section 45 of Act 181,
15 Session Laws of Hawaii 2017, as amended by this Act:

16 Part I. General Provisions and Definitions

- 17 514A-1 Title
- 18 514A-1.5 Applicability of chapter
- 19 514A-1.6 Conformance with county land use ordinances
- 20 514A-2 Chapter not exclusive
- 21 514A-3 Definitions



- 1 514A-4 Status of apartments
- 2 514A-5 Ownership of apartments
- 3 514A-6 Separate taxation
- 4 Part II. Creation, Alteration, and Termination
- 5 of Condominiums
- 6 514A-11 Recordation and contents of declaration
- 7 514A-12 Copy of the floor plans to be filed
- 8 514A-13 Common elements
- 9 514A-13.6 Mailboxes for each dwelling required
- 10 514A-14 Parking stalls
- 11 514A-14.5 Ownership of parking stalls
- 12 514A-15 Common profits and expenses
- 13 514A-15.1 Common expenses; prior late charges
- 14 514A-15.5 Metering of utilities
- 15 514A-16 Liens against apartments; removal from lien;
- 16 effect of part payment
- 17 514A-17 Contents of deeds or leases of apartments
- 18 514A-18 Blanket mortgages and other blanket liens
- 19 affecting an apartment at time of first
- 20 conveyance or lease
- 21 514A-19 Merger of increments



- 1 514A-20 Condominium property regimes
- 2 514A-21 Removal from provisions of this chapter
- 3 Part III. Registration and Administration
- 4 514A-32 Questionnaire and filing fee
- 5 514A-33 Inspection
- 6 514A-34 Inspection expenses
- 7 514A-35 Waiver of inspection
- 8 514A-36 Public reports and registration fees
- 9 514A-38 Request for effective date or hearing by
- 10 developer
- 11 514A-40 Final reports
- 12 514A-41 Supplementary public report
- 13 514A-42 True copies of public report; no misleading
- 14 information
- 15 514A-43 Automatic expiration of public reports;
- 16 exceptions
- 17 514A-44 Deposit of fees
- 18 514A-45 Supplemental regulations governing a condominium
- 19 property regime
- 20 514A-46 Investigatory powers
- 21 514A-47 Cease and desist orders



- 1 514A-48 Power to enjoin
- 2 514A-49 Penalties
- 3 514A-50 Limitation of action
- 4 Part IV. Protection of Purchasers
- 5 514A-61 Disclosure requirements
- 6 514A-62 Copy of public report to be given to prospective
- 7 purchaser
- 8 514A-63 Rescission rights
- 9 514A-64.5 Protection of purchasers' funds
- 10 514A-65 Escrow requirement
- 11 514A-67 Financing construction
- 12 514A-68 Misleading statements and omissions
- 13 514A-69 Remedies; sales voidable when and by whom
- 14 514A-70 Warranty against structural and appliance
- 15 defects; notice of expiration required.

16 SECTION 3. Section 514B-56, Hawaii Revised Statutes, is
17 amended to read as follows:

18 " [†] §514B-56 [‡] Developer's public report; amendments.

19 (a) After the effective date for a developer's public report
20 has been issued by the commission, if there are any changes,
21 either material or pertinent changes, or both, regarding the

1 information contained in or omitted from the developer's public
2 report, or if the developer desires to update or change the
3 information set forth in the developer's public report, the
4 developer shall immediately submit to the commission an
5 amendment to the developer's public report or an amended
6 developer's public report clearly reflecting the change,
7 together with such supporting information as may be required by
8 the commission, to update the information contained in the
9 developer's public report, accompanied by nonrefundable fees as
10 provided in rules adopted by the director of commerce and
11 consumer affairs pursuant to chapter 91. Within a reasonable
12 period of time, the commission shall issue an effective date for
13 the amended developer's public report or take other appropriate
14 action under this part.

15 (b) The submission of an amendment to the developer's
16 public report or an amended developer's public report shall not
17 require the developer to suspend sales, subject to the power of
18 the commission to order sales to cease as set forth in section
19 514B-66; provided that the developer shall advise the
20 appropriate real estate broker or brokers, if any, of the change
21 and disclose to purchasers any change in the information



1 contained in the developer's public report pending the issuance
2 of an effective date for any amendment to the developer's public
3 report or amended developer's public report; [~~and~~] provided
4 further that if the amended developer's public report is not
5 issued within thirty days after its submission to the
6 commission, the commission may order a suspension of sales
7 pending the issuance of an effective date for the amended
8 developer's public report. Nothing in this section shall
9 diminish the rights of purchasers under section 514B-94.

10 (c) The developer shall provide all purchasers with a true
11 copy of:

- 12 (1) The amendment to the developer's public report, if the
13 purchaser has received copies of the developer's
14 public report and all prior amendments, if any; or
- 15 (2) A restated developer's public report, including all
16 amendments.

17 (d) The filing of an amendment to the developer's public
18 report or an amended developer's public report, in and of
19 itself, shall not be grounds for a purchaser to cancel or
20 rescind a sales contract. A purchaser's right to cancel or
21 rescind a sales contract shall be governed by sections 514B-86



1 and 514B-87, the terms and conditions of the purchaser's
2 contract for sale, and applicable common law.

3 (e) Notwithstanding any other provision to the contrary,
4 this section shall not apply to a time share project duly
5 registered under chapter 514E; provided that:

6 (1) A copy of the disclosure statement required by chapter
7 514E is delivered to the purchaser or prospective
8 purchaser; or

9 (2) Pursuant to section 514E-30, a copy of the disclosure
10 statement required by chapter 514E is not required to
11 be delivered to the purchaser or prospective purchaser
12 because the offer and sale of the time share interest
13 are made outside of the State."

14 SECTION 4. On July 1, 2020, the authority to extend the
15 operation of the listed sections of chapter 514A, Hawaii Revised
16 Statutes, that is provided under section 2 to allow developers
17 to qualify for the safe harbor provisions of section 45 of Act
18 181, Session Laws of Hawaii 2017, as amended by this Act, shall
19 expire.

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2019.

2



Report Title:

Condominiums; Condominium Property Regimes; Extension

Description:

Revives for one year specified sections of the repealed chapter 514A, HRS, to allow developers whose condominium property regimes were issued an effective date pursuant to sections 514A-40 and 514A-41, HRS, to update their public reports without revising any of the associated documents and have their public reports and disclosure abstracts treated as non-expiring developer's public reports under part IV of chapter 514B, HRS. Clarifies that requirements regarding filing of public reports do not apply to duly registered time share projects under certain conditions. (CD1)

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

