
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds that a number of existing
2 state laws concerning condominiums require clarification due to
3 unintended consequences resulting from amendments to other
4 sections, or provisions being subject to more than one
5 interpretation. Accordingly, the purpose of this Act is to:

6 (1) Clarify that all condominiums may amend their
7 declarations by the vote or written consent of owners
8 representing at least sixty-seven per cent of the
9 common interest, unless the unit owners agree to
10 require a higher percentage; and

11 (2) Clarify provisions concerning the installation of
12 solar energy devices on common elements or limited
13 common elements.

14 SECTION 2. Section 514B-32, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) A declaration shall describe or include the
17 following:



- 1 (1) The land submitted to the condominium property regime;
- 2 (2) The number of the condominium map filed concurrently
- 3 with the declaration;
- 4 (3) The number of units in the condominium property
- 5 regime;
- 6 (4) The unit number of each unit and common interest
- 7 appurtenant to each unit;
- 8 (5) The number of buildings and projects in the
- 9 condominium property regime, and the number of stories
- 10 and units in each building;
- 11 (6) The permitted and prohibited uses of each unit;
- 12 (7) To the extent not shown on the condominium map, a
- 13 description of the location and dimensions of the
- 14 horizontal and vertical boundaries of any unit. Unit
- 15 boundaries may be defined by physical structures or,
- 16 if a unit boundary is not defined by a physical
- 17 structure, by spatial coordinates;
- 18 (8) The condominium property regime's common elements;
- 19 (9) The condominium property regime's limited common
- 20 elements, if any, and the unit or units to which each
- 21 limited common element is appurtenant;



- 1 (10) The total percentage of the common interest that is
2 required to approve rebuilding, repairing, or
3 restoring the condominium property regime if it is
4 damaged or destroyed;
- 5 (11) The total percentage of the common interest, and any
6 other approvals or consents, that are required to
7 amend the declaration. Except as otherwise
8 specifically provided in this chapter, and except for
9 any amendments made pursuant to reservations set forth
10 in paragraph (12), the ~~[approval of the owners of]~~
11 declaration may be amended at any time by vote or
12 written consent of unit owners representing at least
13 sixty-seven per cent of the common interest ~~[shall be~~
14 ~~required for all amendments to the declaration,]~~
15 unless the declaration is amended by the unit owners
16 to require a higher percentage;
- 17 (12) Any rights that the developer or others reserve
18 regarding the condominium property regime, including,
19 without limitation, any development rights, and any
20 reservations to modify the declaration or condominium
21 map. An amendment to the declaration made pursuant to



1 the exercise of those reserved rights shall require
2 only the consent or approval, if any, specified in the
3 reservation; and

- 4 (13) A declaration, subject to the penalties set forth in
5 section 514B-69(b), that the condominium property
6 regime is in compliance with all zoning and building
7 ordinances and codes, and all other permitting
8 requirements pursuant to section 514B-5 and chapter
9 205, including section 205-4.6 where applicable. In
10 the case of a project in the agricultural district
11 classified pursuant to chapter 205, the declaration,
12 subject to the penalties set forth in section
13 514B-69(b), shall include an additional statement that
14 there are no private restrictions limiting or
15 prohibiting agricultural uses or activities in
16 compliance with section 205-4.6. In the case of a
17 property that includes one or more existing structures
18 being converted to condominium property regime status,
19 the declaration required by this section shall
20 specify:



- 1 (A) Any variances that have been granted to achieve
2 the compliance; and
- 3 (B) Whether, as the result of the adoption or
4 amendment of any ordinances or codes, the project
5 presently contains any legal nonconforming
6 conditions, uses, or structures.

7 A property that is registered pursuant to section
8 514B-51 shall instead provide the required declaration
9 pursuant to section 514B-54. If a developer is
10 converting a structure to condominium property regime
11 status and the structure is not in compliance with all
12 zoning and building ordinances and codes, and all
13 other permitting requirements pursuant to section
14 514B-5, and the developer intends to use purchaser's
15 funds pursuant to the requirements of section 514B-92
16 or 514B-93 to cure the violation or violations, then
17 the declaration required by this paragraph may be
18 qualified to identify with specificity each violation
19 and the requirement to cure the violation by a date
20 certain."



1 SECTION 3. Section 514B-140, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) Subject to the provisions of the declaration,
4 nonmaterial additions to or alterations of the common elements
5 or units[~~7~~] made by an owner, including, without limitation,
6 additions to or alterations of a unit made within the unit or
7 within a limited common element appurtenant to and for the
8 exclusive use of the unit, shall require approval only by the
9 board, which shall not unreasonably withhold the approval, and
10 such percentage, number, or group of unit owners as may be
11 required by the declaration or bylaws; provided that:

12 (1) ~~[The]~~ Except as provided in paragraph (2), the
13 installation of solar energy devices by owners of
14 condominium units shall be allowed in accordance with
15 reasonable rules, regulations, and specifications
16 established by the board and upon written consent of
17 the board; and

18 (2) The installation of solar energy devices shall be
19 allowed on single-family residential dwellings or
20 townhouses pursuant to the provisions in section
21 196-7.



1 As used in this subsection:

2 "Building-applied photovoltaic" means any new identifiable
3 facility, equipment, apparatus, or the like, which turns solar
4 energy into electric energy and is applied to the outside of a
5 building, such as roof-mounted photovoltaic solar panels.

6 "Building-integrated photovoltaic" means any new
7 identifiable facility, equipment, apparatus, or the like, which
8 generates electricity from solar energy and is integrated into
9 the structural elements of a building, such as photovoltaic
10 windows and skylights.

11 "Nonmaterial additions and alterations" means an addition
12 to or alteration of the common elements or a unit that does not
13 jeopardize the soundness or safety of the property, reduce the
14 value thereof, impair any easement, detract from the appearance
15 of the project, interfere with or deprive any nonconsenting
16 owner of the use or enjoyment of any part of property, or
17 directly affect any nonconsenting owner.

18 "Passive solar skylights or windows" means any skylight or
19 window that regulates heating and cooling but does not generate
20 electricity from solar energy.



1 "Solar energy device" means any new identifiable facility,
2 equipment, apparatus, or the like which makes use of solar
3 energy for heating, cooling, or reducing the use of other types
4 of energy dependent upon fossil fuel for its generation,
5 including but not limited to all types of building-applied
6 photovoltaics and building-integrated photovoltaics; provided
7 that if the equipment sold cannot be used as a solar device
8 without its incorporation with other equipment, it shall be
9 installed in place and be ready to be made operational in order
10 to qualify as a "solar energy device"; provided further that
11 "solar energy device" shall not include passive solar skylights
12 or windows.

13 "Townhouse" means a series of individual houses, having
14 architectural unity and a common wall between each unit;
15 provided that each unit extends from the ground to the roof.

16 (d) Notwithstanding any other law to the contrary in this
17 chapter or any provisions in any declaration or bylaws:

18 (1) Regarding the installment of telecommunications
19 equipment:

20 (A) The board shall have the authority to install or
21 cause the installation of antennas, conduits,



1 chases, cables, wires, and other television
2 signal distribution and telecommunications
3 equipment upon the common elements of the
4 project; provided that the same shall not be
5 installed upon any limited common element without
6 the consent of the owner or owners of the unit or
7 units for the use of which the limited common
8 element is reserved; and

9 (B) The installation of antennas, conduits, chases,
10 cables, wires, and other television signal
11 distribution and telecommunications equipment
12 upon the common elements by the board shall not
13 be deemed to alter, impair, or diminish the
14 common interest, common elements, and easements
15 appurtenant to each unit, or to be a structural
16 alteration or addition to any building
17 constituting a material change in the plans of
18 the project filed in accordance with sections
19 514B-33 and 514B-34; provided that no
20 installation shall directly affect any
21 nonconsenting unit owner;



1 (2) Regarding the abandonment of telecommunications
2 equipment:
3 (A) The board shall be authorized to abandon or
4 change the use of any television signal
5 distribution and telecommunications equipment due
6 to technological or economic obsolescence or to
7 provide an equivalent function by different means
8 or methods; and
9 (B) The abandonment or change of use of any
10 television signal distribution or
11 telecommunications equipment by the board due to
12 technological or economic obsolescence or to
13 provide an equivalent function by different means
14 or methods shall not be deemed to alter, impair,
15 or diminish the common interest, common elements,
16 and easements appurtenant to each unit or to be a
17 structural alteration or addition to any building
18 constituting a material change in the plans of
19 the project filed in accordance with sections
20 514B-33 and 514B-34; and



1 (3) Regarding the installation of solar energy devices and
2 wind energy devices:

3 (A) The board shall have the authority to install or
4 cause the installation of, or lease or license
5 ~~[+]common[+]~~ elements for the installation of
6 solar energy devices and wind energy devices on
7 the common elements of the project ~~[, provided~~
8 ~~that solar]~~, except as provided in this
9 subsection related to limited common elements.

10 Solar or wind energy devices shall not be
11 installed upon any limited common element without
12 the consent of the owner or owners of the unit or
13 units for which use of the limited common element
14 is reserved ~~[, and]~~; provided that this consent
15 shall not be required with respect to the
16 installation of solar energy devices and wind
17 energy devices on portions of a building, such as
18 a roof, where the area of installation is
19 reserved as a limited common element appurtenant
20 to all units in the building; and



1 (B) The installation of solar energy devices and wind
2 energy devices on the common elements of the
3 project by the board, including limited common
4 elements as provided in subparagraph (A), shall
5 not be deemed to alter, impair, or diminish the
6 common interest, common elements, or easements
7 appurtenant to each unit or to be a structural
8 alteration or addition to any building
9 constituting a material change in the plans of
10 the project filed in accordance with sections
11 514B-33 and 514B-34; provided that the
12 installation does not directly affect any
13 nonconsenting unit owner."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Condominiums; Declarations; Amendments; Board of Directors;
Solar Energy Devices

Description:

Clarifies that all condominiums may amend their declarations by the vote or written consent of owners representing at least sixty-seven per cent of the common interest, unless amended by the unit owners to require a higher percentage. Clarifies provisions concerning the installation of solar energy devices on common elements or limited common elements. Effective 7/1/2050. (HD2)

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

