THE SENATE TWENTY-FOURTH LEGISLATURE, 2007 STATE OF HAWAII

S.B. NO. 1837

1

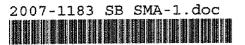
JAN 2 4 2007

#### A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

| 1  | SECTION 1. The purpose of this Act is to establish a            |
|----|---|
| 2  | condominium commission to:                                      |
| 3  | (1) Insure a smooth transition of the provisions of             |
| 4  | chapter 514B, Hawaii Revised Statutes, the Condominium          |
| 5  | Property Act of 2004, as well as to assist in the               |
| 6  | resolution of the ambiguities that still exist;                 |
| 7  | (2) Clarify certain provisions in the current law; and          |
| 8  | (3) Generally implement and enforce policies relating to        |
| 9  | condominiums in the State of Hawaii.                            |
| 10 | SECTION 2. Chapter 514B, Hawaii Revised Statutes, is            |
| 11 | amended by adding two new sections to be appropriately          |
| 12 | designated and to read as follows:                              |
| 13 | "§514B- Condominium commission. (a) There is                    |
| 14 | established in the department of commerce and consumer affairs  |
| 15 | for administrative purposes a condominium commission consisting |
| 16 | of seven members appointed by the governor as provided in       |
| 17 | section 26-34. At least four of the members shall be            |



### S.B. NO. 1837

z

| 1  | owner-occupants of a condominium, one of whom shall be           |
|----|--|
| 2  | designated by the appointing power as chairperson. Four members  |
| 3  | shall be residents of the city and county of Honolulu, one shall |
| 4  | be a resident of the county of Hawaii, one shall be a resident   |
| 5  | of the county of Maui, and one shall be a resident of the county |
| 6  | of Kauai, and two members shall be public members.               |
| 7  | Appointments shall be made for a term of four years,             |
| 8  | commencing from the date of expiration of the last preceding     |
| 9  | term and shall be made to expire on June 30. Appointments shall  |
| 10 | be made so that at least one appointment shall be required each  |
| 11 | year. Any vacancy shall be filled by appointment for the         |
| 12 | unexpired term.  |
| 13 | Members shall serve without compensation but shall be            |
| 14 | reimbursed for expenses, including travel expenses, necessary    |
| 15 | for the performance of their duties.                             |
| 16 | (b) The condominium commission shall:                            |
| 17 | (1) Oversee the implementation and regulation of chapter         |
| 18 | 514B, relating to condominiums; and                              |
| 19 | (2) Develop, implement, and enforce policies relating to         |
| 20 | condominiums in the State.                                       |
| 21 | §514B- Property management agreements; terminations.             |
| 22 | (a) The relationship between the association and its property    |

2007-1183 SB SMA-1.doc



### S.B. NO. 1837

3

| management company shall be governed by a written agreement     |
|---|
| signed by an officer of the board of directors. The board shall |
| have the sole authority to engage or hire, revoke, or terminate |
| a property management company to operate and manage the         |
| property; provided that the owners shall retain the right to    |
| ratify the management agreement at the association's annual     |
| meeting.  |
| (b) The terms and conditions of the termination provision       |
| of the property management agreement shall be the same for      |
| either party and no property management agreement shall include |
| payment of termination or liquidated damages fees in an amount  |
| that exceeds one month's payment under that agreement.          |
| (c) Any property management agreement that violates this        |
| section shall be void at the option of the board and no         |
| termination or liquidated damages shall be payable by the       |
| association.  |
| (d) This section shall apply to all property management         |
| contracts between associations and property management          |
| companies."   |
| SECTION 3. Section 514B-3, Hawaii Revised Statutes, is          |
| amended by amending the definition of "unit owner" to read as   |
| follows:  |
|   |

2007-1183 SB SMA-1.doc

Page 3

S.B. NO. /837

""Unit owner" means the person owning, or the persons 1 owning jointly or in common, a unit and its appurtenant common 2 interest; provided that a time share owner is not a "unit 3 owner"; and provided further that to such extent and for such 4 purposes as provided by recorded lease, including the exercise 5 of voting rights, a lessee of a unit shall be deemed to be the 6 7 unit owner." SECTION 4. Section 514B-41, Hawaii Revised Statutes, is 8 amended by amending subsection (d) to read as follows: 9 10 "(d) Unless made pursuant to rights reserved in the declaration and disclosed in the developer's public report, if 11 12 an association amends its declaration or bylaws to change the 13 use of the condominium property regime from residential to nonresidential  $[\tau]$  or from residential to assisted living 14 facility, all direct and indirect costs attributable to the 15 newly permitted nonresidential or assisted living use shall be 16 charged only to the unit owners using or [directly] benefiting 17 from the new nonresidential or assisted living use, in a fair 18 and equitable manner as set forth in the amendment to the 19 declaration or bylaws [-]; provided that this section shall also 20 21 apply to condominiums under chapter 514A."



# S.B. NO. /837

ş

| 1  | SECTION 5. Section 514B-125, Hawaii Revised Statutes, is           |
|----|--|
| 2  | amended by amending subsection (a) to read as follows:             |
| 3  | "(a) All meetings of the board, other than executive               |
| 4  | sessions, shall be open to all members of the association, and     |
| 5  | association members who are not on the board may participate in    |
| 6  | any deliberation or discussion, other than executive sessions,     |
| 7  | unless a majority of a quorum of the board votes otherwise $[-]$ ; |
| 8  | provided that members are encouraged to participate in the         |
| 9  | deliberations or discussions and any limitation of their           |
| 10 | participation must be for good cause, a description of which       |
| 11 | shall be included in the minutes of the meeting when a motion to   |
| 12 | limit participation is made. Limiting member participation in      |
| 13 | such deliberations or discussions based on a concern that it       |
| 14 | will extend the time to complete the meeting does not constitute   |
| 15 | "good cause" under this section."                                  |
| 16 | SECTION 6. There is appropriated out of the general                |
| 17 | revenues of the State of Hawaii the sum of \$ , or so              |
| 18 | much thereof as may be necessary for fiscal year 2007-2008, for    |
| 19 | the operations of the condominium commission under section         |
|    |  |

21 The sum appropriated shall be expended by the department of 22 commerce and consumer affairs for the purposes of this Act.



20

514B- .

4

## S.B. NO. 1837

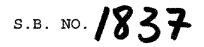
1 SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored. 2

SECTION 8. This Act shall take effect on July 1, 2007. 3

INTRODUCED BY:

Carol Julianage Will Envo Ensanne Chun aduland Rosely & Bike





Report Title: Condominiums

#### Description:

Establishes a condominium commission; clarifies various condominium provisions.

