

JAN 24 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



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



1 management company shall be governed by a written agreement
2 signed by an officer of the board of directors. The board shall
3 have the sole authority to engage or hire, revoke, or terminate
4 a property management company to operate and manage the
5 property; provided that the owners shall retain the right to
6 ratify the management agreement at the association's annual
7 meeting.

8 (b) The terms and conditions of the termination provision
9 of the property management agreement shall be the same for
10 either party and no property management agreement shall include
11 payment of termination or liquidated damages fees in an amount
12 that exceeds one month's payment under that agreement.

13 (c) Any property management agreement that violates this
14 section shall be void at the option of the board and no
15 termination or liquidated damages shall be payable by the
16 association.

17 (d) This section shall apply to all property management
18 contracts between associations and property management
19 companies."

20 SECTION 3. Section 514B-3, Hawaii Revised Statutes, is
21 amended by amending the definition of "unit owner" to read as
22 follows:



1 ""Unit owner" means the person owning, or the persons
2 owning jointly or in common, a unit and its appurtenant common
3 interest; provided that a time share owner is not a "unit
4 owner"; and provided further that to such extent and for such
5 purposes as provided by recorded lease, including the exercise
6 of voting rights, a lessee of a unit shall be deemed to be the
7 unit owner."

8 SECTION 4. Section 514B-41, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) Unless made pursuant to rights reserved in the
11 declaration and disclosed in the developer's public report, if
12 an association amends its declaration or bylaws to change the
13 use of the condominium property regime from residential to
14 nonresidential[~~-~~] or from residential to assisted living
15 facility, all direct and indirect costs attributable to the
16 newly permitted nonresidential or assisted living use shall be
17 charged only to the unit owners using or [~~directly~~] benefiting
18 from the new nonresidential or assisted living use, in a fair
19 and equitable manner as set forth in the amendment to the
20 declaration or bylaws[~~-~~]; provided that this section shall also
21 apply to condominiums under chapter 514A."



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
20 514B- .

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



S.B. NO. 1837

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

3 SECTION 8. This Act shall take effect on July 1, 2007.
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Report Title:
Condominiums

Description:
Establishes a condominium commission; clarifies various
condominium provisions.

