
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-142, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "[+] §514B-142 [+] Aging in place [+] or disabled; limitation
4 on liability. (a) The association, its directors, unit owners,
5 or residents, and their agents and tenants, acting through the
6 board, shall not have any legal responsibility or legal
7 liability, with respect to any actions and recommendations the
8 board takes on any report, observation, or complaint made, or
9 with respect to any recommendation or referral given, which
10 relates to an elderly or disabled unit owner or resident who[-]
11 may require services and assistance to maintain independent
12 living in the unit in which the elderly or disabled unit owner
13 or resident resides, so that the elderly or disabled unit owner
14 or resident will not pose any harm or health or safety hazards
15 to self or to others, and will not otherwise be disruptive to
16 the condominium community because of [~~the following~~] problems of
17 aging and aging in place[-] or living independently with a



1 physical or mental disability or disabling condition. This
2 section shall apply to elderly or disabled unit owners or
3 residents whose actions or non-actions pose a risk to their own
4 health or safety or to the health and safety of others, cause
5 harm to the resident or others, or where physical or mental
6 abuse may be life-threatening, and who exhibit the following
7 characteristics:

8 (1) The inability to clean and maintain an independent
9 unit;

10 (2) Mental confusion;

11 (3) Abusing others;

12 (4) Inability to care for oneself; or

13 (5) Inability to arrange for home care[~~+~~

14 ~~(6) Loneliness and neglect; or~~

15 ~~(7) Inappropriate requests of others for assistance.~~

16 ~~For purposes of this section, "elderly" means age sixty two and~~
17 ~~elder].~~

18 (b) Upon a report, observation, or complaint relating to
19 an elderly or disabled unit owner or resident aging or aging in
20 place or living independently with a physical or mental
21 disability or disabling condition, which notes a problem similar
22 in nature to the problems enumerated in subsection (a), the



1 board, in good faith, and without legal responsibility or
2 liability, may request a functional assessment regarding the
3 condition of an elderly or disabled unit owner or resident as
4 well as recommendations for [~~the~~] services from mental health or
5 medical practitioners, governmental agencies responsible for
6 adult protective services, or non-profit or for-profit service
7 entities which the elderly or disabled unit owner or resident
8 may require to maintain a level of independence that enables the
9 owner or resident to avoid any harm to self or to others, and to
10 avoid disruption to the condominium community[-]; provided that
11 when a functional assessment is requested by the board, the unit
12 owner or resident shall be deemed to be the client of the person
13 or entity conducting the functional assessment. The board, upon
14 request or unilaterally, and without legal responsibility or
15 liability, may recommend available services, including
16 assistance from state or county agencies and non-profit or for-
17 profit service entities, to an elderly or disabled unit owner or
18 resident which [~~might~~] may enable the elderly or disabled unit
19 owner or resident to maintain a level of independent living with
20 assistance, enabling in turn, the elderly or disabled unit owner
21 or resident to avoid any harm to self or others, and to avoid
22 disruption to the condominium community.



1 (c) There is no affirmative duty on the part of the
2 association, its board, the unit owners, or residents, or their
3 agents or tenants to request or require an assessment and
4 recommendations with respect to an elderly or disabled unit
5 owner or resident when the elderly or disabled unit owner or
6 resident may be experiencing the problems related to aging and
7 aging in place or living independently with a physical or mental
8 disability or disabling condition enumerated in subsection (a).
9 The association, its board, unit owners, or residents, and their
10 agents and tenants shall not be legally responsible or liable
11 for not requesting or declining to request a functional
12 assessment of, and recommendations for, an elderly or disabled
13 unit owner or resident regarding problems relating to aging and
14 aging in place[-] or living independently with a physical or
15 mental disability or disabling condition.

16 (d) If an elderly or disabled unit owner or resident
17 ignores or rejects a request for or the results from an
18 assessment and recommendations, the association, with no
19 liability for cross-claims or counterclaims, may file
20 appropriate information, pleadings, notices, or the like, with
21 appropriate state or county agencies or courts to seek an



1 appropriate resolution for the condominium community and for the
2 elderly or disabled unit owner[-] or resident.

3 (e) For the purposes of this section:

4 "Elderly" means age sixty-two and older.

5 "Disabled" means a physical or mental impairment that
6 substantially limits one or more major life activities; a record
7 of such an impairment; or being regarded as having such an
8 impairment.

9 [~~e~~] (f) Costs and fees for assessments, recommendations,
10 and actions contemplated in this section shall be as set forth
11 in the declaration or bylaws.

12 [~~f~~] (g) This section shall not be applicable to any
13 condominium that seeks to become licensed as an assisted living
14 facility pursuant to title 11, chapter 90, Hawaii Administrative
15 Rules, as amended."

16 SECTION 2. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on July 1, 2009.



H.B. NO. 876
H.D. 1
S.D. 2
C.D. 2

Report Title:

Condominiums; Aging in Place

Description:

Expands limitations on association liability for elderly unit owners or residents aging in place to include disabled persons.
(HB876 CD2)

