

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. At present, sections 196-7 and 514B-140, Hawaii  
2 Revised Statutes, give apartment owners broad authority to  
3 install solar energy devices for their personal use, to reduce  
4 Hawaii's dependence on fossil fuels. Nevertheless, the law does  
5 not give boards of directors the same authority on behalf of  
6 their associations, even though associations can also benefit  
7 from installing solar energy or wind energy devices on the  
8 common elements for the same purpose. Some companies are now  
9 proposing to lease areas of the common elements from  
10 associations to install solar energy or wind energy devices,  
11 thereby reducing the association's energy costs and dependence  
12 on fossil fuels. This Act amends section 514B-140, Hawaii  
13 Revised Statutes, to provide boards of directors with the same  
14 authority that owners now have to install or allow the  
15 installation of solar energy or wind energy devices on the  
16 common elements, under appropriate circumstances, to further



1 reduce Hawaii's dependence on energy generated from fossil  
2 fuels.

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

5 "(d) Notwithstanding any other provisions to the contrary  
6 in this chapter or in any declaration or bylaws:

7 (1) Regarding the [~~installment~~] installation of  
8 telecommunications equipment:

9 (A) The board shall have the authority to install or  
10 cause the installation of antennas, conduits,  
11 chases, cables, wires, and other television  
12 signal distribution and telecommunications  
13 equipment upon the common elements of the  
14 project; provided that the same shall not be  
15 installed upon any limited common element without  
16 the consent of the owner or owners of the unit or  
17 units for the use of which the limited common  
18 element is reserved; and

19 (B) The installation of antennas, conduits, chases,  
20 cables, wires, and other television signal  
21 distribution and telecommunications equipment  
22 upon the common elements by the board shall not



1 be deemed to alter, impair, or diminish the  
2 common interest, common elements, and easements  
3 appurtenant to each unit, or to be a structural  
4 alteration or addition to any building  
5 constituting a material change in the plans of  
6 the project filed in accordance with sections  
7 514B-33 and 514B-34; provided that no such  
8 installation shall directly affect any  
9 nonconsenting unit owner; [and]

10 (2) Regarding the abandonment of telecommunications  
11 equipment:

12 (A) The board shall be authorized to abandon or  
13 change the use of any television signal  
14 distribution and telecommunications equipment due  
15 to technological or economic obsolescence or to  
16 provide an equivalent function by different means  
17 or methods; and

18 (B) The abandonment or change of use of any  
19 television signal distribution or  
20 telecommunications equipment by the board due to  
21 technological or economic obsolescence or to  
22 provide an equivalent function by different means



1 or methods shall not be deemed to alter, impair,  
2 or diminish the common interest, common elements,  
3 and easements appurtenant to each unit or to be a  
4 structural alteration or addition to any building  
5 constituting a material change in the plans of  
6 the project filed in accordance with sections  
7 514B-33 and 514B-34[-]; and

8 (3) Regarding the installation of solar energy devices and  
9 wind energy devices:

10 (A) The board shall have the authority to install or  
11 permit the installation of solar energy devices  
12 and wind energy devices on the common elements of  
13 the project, including leasing or licensing the  
14 common elements for the installations; provided  
15 that solar energy devices and wind energy devices  
16 shall not be installed upon any limited common  
17 element without the consent of the owner or  
18 owners of the unit or units for the use of which  
19 the limited common element is reserved; and

20 (B) The installation of solar energy devices and wind  
21 energy devices on the common elements of the  
22 project by the board shall not be deemed to



1           alter, impair, or diminish the common interest,  
2           common elements, and easements appurtenant to  
3           each unit, or to be a structural alteration or  
4           addition to any building constituting a material  
5           change in the plans of the project filed in  
6           accordance with sections 514B-33 and 514B-34;  
7           provided that no such installation shall directly  
8           affect any nonconsenting unit owner.

9           As used in this subsection:

10           "Directly affect" means the installation of television  
11 signal distribution and telecommunications equipment, solar  
12 energy devices, and wind energy devices in a manner which would  
13 specially, personally, and adversely affect a unit owner in a  
14 manner not common to the unit owners as a whole.

15           "Solar energy device means the same as defined in  
16 subsection (c).

17           "Television signal distribution" and "telecommunications  
18 equipment" shall be construed in their broadest possible senses  
19 in order to encompass all present and future forms of  
20 communications technology.

21           "Wind energy device" means any new identifiable facility,  
22 equipment, apparatus, or the like which makes use of wind



1 energy for producing electricity or reducing the use of other  
 2 types of energy dependent upon fossil fuel for its generation;  
 3 provided that if the equipment sold cannot be used as a wind energy  
 4 device without its incorporation with other equipment, it shall be  
 5 installed in place and shall be ready to be made operational in  
 6 order to qualify as a "wind energy device"."

7 SECTION 3. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

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**Report Title:**

Condominiums; Solar Energy

**Description:**

Permits condominium boards to install solar energy devices or wind energy devices on common elements, subject to limitations.

