
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 514B-140 and 196-7, 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.

13 The purpose of this Act is to amend section 514B-140,
14 Hawaii Revised Statutes, and to add a new section to chapter
15 514A, Hawaii Revised Statutes, to provide boards of directors
16 with the same authority that owners now have to install or allow
17 the installation of solar energy or wind energy devices on the
18 common elements, under appropriate circumstances, to further

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

3 SECTION 2. Chapter 514A, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§514A- Renewable energy devices. (a) Notwithstanding
7 any other provisions to the contrary in this chapter, in the
8 declaration of any project, or in the bylaws of any association:

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

18 (2) The installation of solar energy devices and wind
19 energy devices on the common elements of the project
20 by the board shall not be deemed to alter, impair, or
21 diminish the common interest, common elements, and
22 easements appurtenant to each unit, or to be a

1 structural alteration or addition to any building
2 constituting a material change in the plans of the
3 project filed in accordance with sections 514A-12;
4 provided that no such installation shall directly
5 affect any nonconsenting unit owner.

6 (b) Notwithstanding any other provisions to the contrary
7 in this chapter, in the declaration of any project, or in the
8 bylaws of any association:

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

14 (2) The abandonment or change of use of any television
15 signal distribution or telecommunications equipment by
16 the board due to technological or economic
17 obsolescence or to provide an equivalent function by
18 different means or methods shall not be deemed to
19 alter, impair, or diminish the common interest, common
20 elements, and easements appurtenant to each unit or to
21 be a structural alteration or addition to any building

1 constituting a material change in the plans of the
2 project filed in accordance with sections 514A-12.

3 (c) As used in this section:

4 "Directly affect" means the installation of solar energy or
5 wind energy devices in a manner that would specially,
6 personally, and adversely affect an apartment owner in a manner
7 not common to the apartment owners as a whole.

8 "Solar energy or wind energy device" shall be construed in
9 their broadest possible senses in order to encompass all present
10 and future forms of solar and wind energy generation
11 technology."

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

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

16 (1) Regarding the installment of telecommunications
17 equipment:

18 (A) The board shall have the authority to install or
19 cause the installation of antennas, conduits,
20 chases, cables, wires, and other television
21 signal distribution and telecommunications
22 equipment upon the common elements of the

1 project; provided that the same shall not be
2 installed upon any limited common element without
3 the consent of the owner or owners of the unit or
4 units for the use of which the limited common
5 element is reserved; and

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

19 (2) Regarding the abandonment of telecommunications
20 equipment:

21 (A) The board shall be authorized to abandon or
22 change the use of any television signal

1 distribution and telecommunications equipment due
2 to technological or economic obsolescence or to
3 provide an equivalent function by different means
4 or methods; and

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

17 (3) Regarding the installation of solar energy devices and
18 wind energy devices:

19 (A) The board shall have the authority to install or
20 cause the installation of solar energy devices
21 and wind energy devices on the common elements of
22 the project, including leasing or licensing the

1 common elements for such installations; provided
2 that the same shall not be installed upon any
3 limited common element without the consent of the
4 owner or owners of the unit or units for the use
5 of which the limited common element is reserved;
6 and

7 (B) The installation of solar energy devices and wind
8 energy devices on the common elements of the
9 project by the board shall not be deemed to
10 alter, impair, or diminish the common interest,
11 common elements, and easements appurtenant to
12 each unit, or to be a structural alteration or
13 addition to any building constituting a material
14 change in the plans of the project filed in
15 accordance with sections 514B-33 and 514B-34;
16 provided that no such installation shall directly
17 affect any nonconsenting unit owner.

18 As used in this subsection:

19 "Directly affect" means the installation of television
20 signal distribution and telecommunications equipment, solar
21 energy devices, and wind energy devices in a manner which would

1 specially, personally, and adversely affect a unit owner in a
2 manner not common to the unit owners as a whole.

3 "Solar energy device" means the same as in subsection (c).

4 "Television signal distribution" and "telecommunications
5 equipment" shall be construed in their broadest possible senses
6 in order to encompass all present and future forms of
7 communications technology.

8 "Wind energy device" means any new identifiable facility,
9 equipment, apparatus, or the like which makes use of wind energy
10 for producing electricity or reducing the use of other types of
11 energy that are dependent upon fossil fuel for generation;
12 provided that if the facility, equipment, apparatus, or the like
13 cannot be used as a wind energy device without its incorporation
14 with other equipment, it shall be installed in place and be
15 ready to be made operational in order to qualify as a wind
16 energy device."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Condominiums; Solar Energy; Wind Energy

Description:

Gives boards of directors authority to install or allow the installation of solar energy or wind energy devices on the common elements of condominiums. (SD2)