

JAN 22 2010

S.B. NO. 2423

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. At present, section 514B-140, Hawaii Revised
2 Statutes, gives apartment owners broad authority to install
3 solar energy devices for their personal use, to reduce Hawaii's
4 dependence on fossil fuels. Nevertheless, the law does not give
5 boards of directors the same authority on behalf of their
6 associations, even though associations can also benefit from
7 installing solar energy or wind energy devices on the common
8 elements for the same purpose. Some companies are now proposing
9 to lease areas of the common elements from associations to
10 install solar energy or wind energy devices, thereby reducing
11 the association's energy costs and dependence on fossil fuels.

12 The purpose of this Act is to amend sections 514A-13.4 and
13 514B-140, Hawaii Revised Statutes, to specifically provide
14 boards of directors with the same authority that owners now have
15 to install or allow the installation of solar energy or wind
16 energy devices on the common elements, under appropriate
17 circumstances, to further reduce Hawaii's dependence on energy
18 generated from fossil fuels.



1 SECTION 2. Section 514A-13.4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§514A-13.4[+] **Telecommunications equipment[-] and**
4 **renewable energy devices.** (a) Notwithstanding any other
5 provisions to the contrary in this chapter, in the declaration
6 of any project, or in the bylaws of any association:

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

17 (2) The installation of antennas, conduits, chases,
18 cables, wires, and other television signal
19 distribution and telecommunications equipment upon the
20 common elements by the board shall not be deemed to
21 alter, impair, or diminish the common interest,
22 elements, and easements appurtenant to each apartment



1 or to be a structural alteration or addition to any
2 building different in any material respect from the
3 plans of the project filed in accordance with section
4 514A-12; provided that no such installation shall
5 directly affect any nonconsenting apartment owner.

6 (b) Notwithstanding any other provision to the contrary in
7 this chapter, in the declaration of any project or in the bylaws
8 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,
20 elements, and easements appurtenant to each apartment
21 or to be a structural alteration or addition to any
22 building different in any material respect from the



1 plans of the project filed in accordance with section
2 514A-12.

3 (c) Notwithstanding any other provisions to the contrary
4 in this chapter, in the declaration of any project, or in the
5 bylaws of any association:

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

15 (2) The installation of solar energy devices and wind
16 energy devices on the common elements of the project
17 by the board shall not be deemed to alter, impair, or
18 diminish the common interest, common elements, and
19 easements appurtenant to each unit, or to be a
20 structural alteration or addition to any building
21 constituting a material change in the plans of the
22 project filed in accordance with sections 514A-12;



1 provided that no such installation shall directly
2 affect any nonconsenting unit owner.

3 [~~e~~] As used in this section:

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

9 "Solar energy device" means any new identifiable facility,
10 equipment, apparatus, or the like which makes use of solar
11 energy for heating, cooling, or reducing the use of other types
12 of energy dependent upon fossil fuel for its generation;
13 provided that if the equipment sold cannot be used as a solar
14 device without its incorporation with other equipment, it shall
15 be installed in place and be ready to be made operational in
16 order to qualify as a "solar energy device"; provided further
17 that "solar energy device" shall not include skylights or
18 windows.

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



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

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

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

14 (1) Regarding the installment of telecommunications
15 equipment:

16 (A) The board shall have the authority to install or
17 cause the installation of antennas, conduits,
18 chases, cables, wires, and other television
19 signal distribution and telecommunications
20 equipment upon the common elements of the
21 project; provided that the same shall not be
22 installed upon any limited common element without



1 the consent of the owner or owners of the unit or
2 units for the use of which the limited common
3 element is reserved; and

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

17 (2) Regarding the abandonment of telecommunications
18 equipment:

19 (A) The board shall be authorized to abandon or
20 change the use of any television signal
21 distribution and telecommunications equipment due
22 to technological or economic obsolescence or to



1 provide an equivalent function by different means
2 or methods; and

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

15 (3) Regarding the installation of solar energy devices and
16 wind energy devices:

17 (A) The board shall have the authority to install or
18 cause the installation of solar energy devices
19 and wind energy devices on the common elements of
20 the project, including leasing or licensing the
21 common elements for the installations; provided
22 that the same shall not be installed upon any



1 limited common element without the consent of the
2 owner or owners of the unit or units for the use
3 of which the limited common element is reserved;
4 and

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

16 As used in this subsection:

17 "Directly affect" means the installation of television
18 signal distribution and telecommunications equipment, solar
19 energy devices, or wind energy devices in a manner which would
20 specially, personally, and adversely affect a unit owner in a
21 manner not common to the unit owners as a whole.

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



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

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

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY:

Mike Hubbard

*George de P...
Chris...
Fred...*

*Arvid...
Guy...
Norman...*



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.

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