

JAN 23 2009

A BILL FOR AN ACT

RELATING TO CONDOMINIUM PROPERTY REGIMES.

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

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

3 "~~§~~514A-13.4~~§~~ **Telecommunications equipment.** (a)

4 Notwithstanding any other provisions to the contrary in this
5 chapter, in the declaration of any project, or in the bylaws of
6 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



1 distribution and telecommunications equipment upon the
2 common elements by the board shall not be deemed to
3 alter, impair, or diminish the common interest,
4 elements, and easements appurtenant to each apartment
5 or to be a structural alteration or addition to any
6 building different in any material respect from the
7 plans of the project filed in accordance with section
8 514A-12; provided that no such installation shall
9 directly affect any nonconsenting apartment owner.

10 (b) Notwithstanding any other provision to the contrary in
11 this chapter, in the declaration of any project or in the bylaws
12 of any association:

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

18 (2) The abandonment or change of use of any television
19 signal distribution or telecommunications equipment by
20 the board due to technological or economic
21 obsolescence or to provide an equivalent function by
22 different means or methods shall not be deemed to



1 alter, impair, or diminish the common interest,
2 elements, and easements appurtenant to each apartment
3 or to be a structural alteration or addition to any
4 building different in any material respect from the
5 plans of the project filed in accordance with section
6 514A-12.

7 (c) Notwithstanding any other provision to the contrary in
8 this chapter, in the declarations of any project, or in the
9 bylaws of any association:

10 (1) The board of directors of an association shall have
11 the authority to permit owners to install antennas for
12 amateur radios in their apartments or their limited
13 common element without the consent of the owner or
14 owners of the apartment or apartments for the use of
15 which the limited common element is reserved;

16 (2) The installation of antennas for amateur radios
17 approved by the board pursuant to paragraph (1) shall
18 not be deemed to alter, impair, or diminish the common
19 interest, elements, and easements appurtenant to each
20 apartment or to be a structural alteration or addition
21 to any building different in any material respect from
22 the plans of the project filed in accordance with



1 section 514A-12; provided that no such installation
2 shall directly affect any nonconsenting apartment
3 owner; and

4 (3) If a board of directors in its sole discretion denies
5 an owner permission to install an antenna for amateur
6 radio in the owner's apartment or limited common
7 element, the board shall provide the reasons for the
8 denial in writing.

9 [~~e~~] (d) As used in this section:

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

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

19 SECTION 2. Section 514B-140, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§514B-140 Additions to and alterations of condominium.**

22 (a) No unit owner shall do any work that may jeopardize the



1 soundness or safety of the property, reduce the value thereof,
2 or impair any easement, as reasonably determined by the board.

3 (b) Subject to the provisions of the declaration, no unit
4 owner may make or allow any material addition or alteration, or
5 excavate an additional basement or cellar, without first
6 obtaining the written consent of sixty-seven per cent of the
7 unit owners, the consent of all unit owners whose units or
8 appurtenant limited common elements are directly affected, and
9 the approval of the board, which shall not unreasonably withhold
10 such approval. The declaration may limit the board's ability to
11 approve or condition a proposed addition or alteration; provided
12 that the board shall always have the right to disapprove a
13 proposed addition or alteration that the board reasonably
14 determines could jeopardize the soundness or safety of the
15 property, impair any easement, or interfere with or deprive any
16 nonconsenting owner of the use or enjoyment of any part of the
17 property.

18 (c) Subject to the provisions of the declaration,
19 nonmaterial additions to or alterations of the common elements
20 or units, including, without limitation, additions to or
21 alterations of a unit made within the unit or within a limited
22 common element appurtenant to and for the exclusive use of the



1 unit, shall require approval only by the board, which shall not
2 unreasonably withhold the approval, and such percentage, number,
3 or group of unit owners as may be required by the declaration or
4 bylaws; provided that the installation of solar energy devices
5 shall be allowed on single-family residential dwellings or
6 townhouses pursuant to the provisions in section 196-7.

7 As used in this subsection:

8 "Nonmaterial additions and alterations" means an addition
9 to or alteration of the common elements or a unit that does not
10 jeopardize the soundness or safety of the property, reduce the
11 value thereof, impair any easement, detract from the appearance
12 of the project, interfere with or deprive any nonconsenting
13 owner of the use or enjoyment of any part of property, or
14 directly affect any nonconsenting owner.

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



1 that "solar energy device" shall not include skylights or
2 windows.

3 "Townhouse" means a series of individual houses, having
4 architectural unity and a common wall between each unit,
5 provided that each unit extends from the ground to the roof.

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

8 (1) Regarding the installment of telecommunications
9 equipment:

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

20 (B) The installation of antennas, conduits, chases,
21 cables, wires, and other television signal
22 distribution and telecommunications equipment



1 upon the common elements by the board shall not
2 be deemed to alter, impair, or diminish the
3 common interest, common elements, and easements
4 appurtenant to each unit, or to be a structural
5 alteration or addition to any building
6 constituting a material change in the plans of
7 the project filed in accordance with sections
8 514B-33 and 514B-34; provided that no such
9 installation shall directly affect any
10 nonconsenting unit owner; and

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

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

19 (B) The abandonment or change of use of any
20 television signal distribution or
21 telecommunications equipment by the board due to
22 technological or economic obsolescence or to



1 provide an equivalent function by different means
2 or methods shall not be deemed to alter, impair,
3 or diminish the common interest, common elements,
4 and easements appurtenant to each unit or to be a
5 structural alteration or addition to any building
6 constituting a material change in the plans of
7 the project filed in accordance with sections
8 514B-33 and 514B-34.

9 As used in this subsection:

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

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

18 (e) Notwithstanding any other provision to the contrary in
19 this chapter, in the declaration of any project, or in the
20 bylaws of any association:

21 (1) The board of directors of an association shall have
22 the authority to permit owners to install antennas for



1 amateur radios in their apartments or their limited
2 common element without the consent of the owner or
3 owners of the apartment or apartments for the use of
4 which the limited common element is reserved;

5 (2) The installation of antennas for amateur radios
6 approved by the board pursuant to paragraph (1) shall
7 not be deemed to alter, impair, or diminish the common
8 interest, elements, and easements appurtenant to each
9 apartment or to be a structural alteration or addition
10 to any building different in any material respect from
11 the plans of the project filed in accordance with
12 section 514A-12; provided that no such installation
13 shall directly affect any nonconsenting apartment
14 owner; and

15 (3) If a board of directors in its sole discretion denies
16 an owner permission to install an antenna for amateur
17 radio in the owner's apartment or limited common
18 element, the board shall provide the reasons for the
19 denial in writing.

20 (f) As used in this section, "directly affect" means the
21 installation of television signal distribution and
22 telecommunications equipment in a manner which would specially,



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

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

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

6

INTRODUCED BY: Carol Furumaga
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Report Title:

Condominium Property Regimes; HAM Radio Equipment

Description:

Allows the board of directors of an association to allow owners to install antennas for amateur radios. Requires a written statement of the reasons for a denial.



JAN 23 2009

A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. Section 514B-105, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Unless otherwise permitted by the declaration,
4 bylaws, or this chapter, an association may adopt rules and
5 regulations that affect the use of or behavior in units that may
6 be used for residential purposes only to:

7 (1) Prevent any use of a unit which violates the
8 declaration or bylaws;

9 (2) Regulate any behavior in or occupancy of a unit which
10 violates the declaration or bylaws or unreasonably
11 interferes with the use and enjoyment of other units
12 or the common elements by other unit owners; ~~[or]~~

13 (3) Prohibit smoking by an owner, resident, or guest in
14 all units, common elements, and limited common
15 elements as defined in section 514B-3; or

16 ~~[-(3)]~~ (4) Restrict the leasing of residential units to the
17 extent those rules are reasonably designed to meet
18 underwriting requirements of institutional lenders who



1 regularly lend money secured by first mortgages on
2 units in condominiums or regularly purchase those
3 mortgages.

4 Otherwise, the association may not regulate any use of or
5 behavior in units, by means of the rules and regulations."

6 SECTION 2. Chapter 421I, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§421I- Adoption of rules and regulations; prohibition
10 of smoking permitted. Unless otherwise prohibited by the
11 articles of incorporation or bylaws, a corporation may adopt
12 rules to prohibit tenant shareholders, guests, and all other
13 persons from smoking in dwelling units, common elements, and
14 limited common elements of the corporation."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.
18

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Report Title:

Smoking; Condominium Property Regimes; Cooperative Housing Corporations; Prohibition by Rule

Description:

Allows condominium property regimes and cooperative housing corporations to prohibit smoking pursuant to an adoption of a rule.

