

JAN 20 2012

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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. The legislature finds that many older  
2 condominium projects in Hawaii operate with only a single meter  
3 measuring the consumption of utilities, such as gas, water, and  
4 electricity, for all units within the condominium.

5 Consequently, utility expenses are paid for as a common expense  
6 based on each unit's undivided interest in the condominium,  
7 rather than individual units paying for the units' actual  
8 utility usage.

9           The legislature finds that this method of apportioning  
10 utility costs is unfair to both unit owners and the condominium  
11 association. A unit owner faces no consequences for wasteful  
12 energy consumption, such as leaving lights or air conditioning  
13 on at all times. Unit owners with vacant units, such as part-  
14 time residents or owners of unoccupied rental units, are also at  
15 a disadvantage. For example, a three-bedroom unit with a higher  
16 undivided interest than a studio apartment will pay a higher  
17 utility cost, regardless of whether the unit is occupied or  
18 vacant. The legislature further finds that wasteful or



1 excessive utility use results in higher costs for the  
2 association when utility costs are paid for as a common expense.

3 The legislature also finds that the patent unfairness of  
4 common utility metering in condominium associations was  
5 addressed by Act 176, Session Laws of Hawaii 1977, and Act 93,  
6 Session Laws of Hawaii 2005, which added new sections to  
7 chapters 514A and 514B, Hawaii Revised Statutes, respectively,  
8 to require individual metering of condominium units. However,  
9 these requirements only apply to projects for which construction  
10 commenced from 1978. Condominiums constructed before 1978 are  
11 unable to benefit from those laws. The legislature finds that  
12 modern technology permits the individual metering of utilities  
13 in many instances for a reasonable cost regardless of the age or  
14 construction design of the condominium project.

15 The purpose of this Act is to permit a condominium board of  
16 directors to authorize the installation of utility meters to  
17 determine utility use by individual units, provided that the  
18 condominium association bears the cost of installing the utility  
19 meters.

20 SECTION 2. Section 514A-15.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§514A-15.5 Metering of utilities. (a) Notwithstanding  
2 the provisions of section 514A-15, commercial apartments in  
3 mixed-use projects containing apartments for both residential  
4 and commercial use, the construction of which commences after  
5 December 31, 1977, shall have a separate meter, or calculations  
6 shall be made, or both, to determine the use by the commercial  
7 apartments of utilities, including electricity, water, gas,  
8 fuel, oil, sewerage, and drainage and the cost of ~~[such]~~ the  
9 utilities shall be paid by the owners of ~~[such]~~ the commercial  
10 units; provided that the apportionment of ~~[such]~~ the charges  
11 among owners of commercial apartments shall be done in a fair  
12 and equitable manner as set forth in the declaration or bylaws.

13           Notwithstanding any provision to the contrary in this  
14 chapter or in a project's declaration or bylaws of an  
15 association of apartment owners, the board of directors may  
16 authorize the installation of separate meters to determine the  
17 use by each of the residential and commercial apartments of  
18 utilities, including electricity, water, gas, fuel, oil,  
19 sewerage, and drainage; provided that the cost of installing the  
20 meters shall be paid by the association.

21           (b) ~~[Subject to]~~ Notwithstanding any approval requirements  
22 and spending limits contained in the declaration or bylaws of an



1 association of apartment owners, the board of directors may  
2 authorize the installation of meters to determine the use by the  
3 residential and commercial apartments of utilities, including  
4 electricity, water, gas, fuel, oil, sewerage, and drainage[-];  
5 provided that the cost of installing the meters shall be paid by  
6 the association. The cost of metered utilities shall be paid by  
7 the owners of [~~such~~] the apartments based on actual consumption  
8 and may be collected in the same manner as common expense  
9 assessments. Owners' maintenance fees shall be adjusted as  
10 necessary to avoid any duplication of charges to these owners  
11 for the cost of metered utilities."

12 SECTION 3. Section 514B-42, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§514B-42[+] **Metering of utilities.** (a) Units in a  
15 project that includes units designated for both residential and  
16 nonresidential use shall have separate meters, or calculations  
17 shall be made, or both, as may be practicable, to determine the  
18 use by the nonresidential units of utilities, including  
19 electricity, water, gas, fuel, oil, sewerage, air conditioning,  
20 chiller water, and drainage, and the cost of [~~such~~] the  
21 utilities shall be paid by the owners of the nonresidential  
22 units; provided that the apportionment of the charges among



1 owners of nonresidential units shall be done in a fair and  
2 equitable manner as set forth in the declaration or bylaws. The  
3 requirements of this subsection shall not apply to projects for  
4 which construction commenced before January 1, 1978.

5 Notwithstanding any provision to the contrary in this  
6 chapter or in a project's declaration or bylaws the board may  
7 authorize the installation of separate meters to determine the  
8 use by each of the residential and commercial units of  
9 utilities, including electricity, water, gas, fuel, oil,  
10 sewerage, and drainage; provided that the cost of installing the  
11 meters shall be paid by the association.

12 (b) [~~Subject to~~] Notwithstanding any approval requirements  
13 and spending limits contained in a project's declaration or  
14 bylaws, a board may authorize the installation of meters to  
15 determine the use by the individual units of utilities,  
16 including electricity, water, gas, fuel, oil, sewerage, air  
17 conditioning, chiller water, and drainage[-]; provided that the  
18 cost of installing the meters shall be paid by the association.

19 The cost of metered utilities shall be paid by the owners of the  
20 units based on actual consumption and, to the extent not billed  
21 directly to the unit owner by the utility provider, may be  
22 collected in the same manner as common expense assessments.



1 Owners' maintenance fees shall be adjusted as necessary to avoid  
2 any duplication of charges to owners for the cost of metered  
3 utilities."

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

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

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INTRODUCED BY:

Will Enger

[Signature]

Clarena K. Richman

[Signature]

[Signature]



# S.B. NO. 2256

**Report Title:**

Condominiums; Metering of Utilities

**Description:**

Allows a condominium board to authorize the installation of separate utility meters, notwithstanding the provisions of a project's declaration or association's bylaws, provided that the association pays the cost of installing the meters.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

