
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 a large percentage
2 of persons in Hawaii live in condominiums and are members of
3 their condominium unit owners' association. The legislature
4 further finds that under existing statute, condominium unit
5 owners are entitled to receive a variety of documents, records,
6 and information from a condominium association, board, or
7 managing agent within thirty days of receipt of the unit owner's
8 written request. However, the legislature also finds that
9 references to releasing these required documents, records, and
10 information appear throughout chapter 514B, Hawaii Revised
11 Statutes, which may lead to confusion among unit owners.

12 Therefore, the purpose of this Act is to create a new
13 section under chapter 514B, Hawaii Revised Statutes, that:

- 14 (1) Clarifies the documents, records, and information that
15 must be made available to any unit owner and the unit
16 owner's authorized agents; and
- 17 (2) Specifies that all documents, records, and information
18 shall be provided to the unit owner no later than



1 thirty days after receipt of a unit owner's written
2 request.

3 The legislature notes that nothing in this Act creates new
4 requirements for the release of documents, records, or
5 information. Rather, this Act merely consolidates into one
6 section the existing requirements for documents, records, and
7 information that already must be released or provided to unit
8 owners, within thirty days, under existing statute.

9 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§514B- Association documents to be provided. (a)
13 Notwithstanding any other provision in the declaration, bylaws,
14 or house rules, if any, the following documents, records, and
15 information, whether maintained, kept, or required to be
16 provided pursuant to this section or section 514B-152, 514B-153,
17 or 514B-154, shall be made available to any unit owner and the
18 owner's authorized agents by the managing agent, resident
19 manager, board through a board member, or the association's
20 representative:



- 1 (1) All financial and other records sufficiently detailed
2 in order to comply with requests for information and
3 disclosures related to the resale of units;
- 4 (2) An accurate copy of the declaration, bylaws, house
5 rules, if any, master lease, if any, a sample original
6 conveyance document, and all public reports and any
7 amendments thereto;
- 8 (3) Detailed, accurate records in chronological order of
9 the receipts and expenditures affecting the common
10 elements, specifying and itemizing the maintenance and
11 repair expenses of the common elements and any other
12 expenses incurred and monthly statements indicating
13 the total current delinquent dollar amount of any
14 unpaid assessments for common expenses;
- 15 (4) All records and the vouchers authorizing the payments
16 and statements kept and maintained at the address of
17 the project, or elsewhere within the State as
18 determined by the board, subject to section 514B-152;
- 19 (5) All signed and executed agreements for managing the
20 operation of the property, expressing the agreement of
21 all parties, including but not limited to financial
22 and accounting obligations, services provided, and any



1 compensation arrangements, including any subsequent
2 amendments;

3 (6) An accurate and current list of members of the
4 condominium association and the members' current
5 addresses and the names and addresses of the vendees
6 under an agreement of sale, if any. A copy of the
7 list shall be available, at cost, to any unit owner
8 who furnishes to the managing agent, resident manager,
9 or the board a duly executed and acknowledged
10 affidavit stating that the list:

11 (A) Shall be used by the unit owner personally and
12 only for the purpose of soliciting votes or
13 proxies or for providing information to other
14 unit owners with respect to association matters;
15 and

16 (B) Shall not be used by the unit owner or furnished
17 to anyone else for any other purpose;

18 (7) The association's most current financial statement, at
19 no cost or on twenty-four-hour loan, at a convenient
20 location designated by the board;

21 (8) Meeting minutes of the association, pursuant to
22 section 514B-122;



1 (9) Meeting minutes of the board, pursuant to section

2 514B-126, which shall be:

3 (A) Available for examination by unit owners at no
4 cost or on twenty-four-hour loan at a convenient
5 location at the project, to be determined by the
6 board; or

7 (B) Transmitted to any unit owner making a request
8 for the minutes within fifteen days of receipt of
9 the request by the owner; provided that:

10 (i) The minutes shall be transmitted by mail,
11 electronic mail transmission, or facsimile,
12 by the means indicated by the owner, if the
13 owner indicated a preference at the time of
14 the request; and

15 (ii) The owner shall pay a reasonable fee for
16 administrative costs associated with
17 handling the request, subject to section
18 514B-105(d);

19 (10) The association's most current financial statement, to
20 be provided to any interested unit owner at no cost or
21 on twenty-four-hour loan, at a convenient location
22 designated by the board;



- 1 (11) Financial statements, general ledgers, the accounts
2 receivable ledger, accounts payable ledgers, check
3 ledgers, insurance policies, contracts, and invoices
4 of the association for the duration those records are
5 kept by the association, and any documents regarding
6 delinquencies of ninety days or more shall be
7 available for examination by unit owners at convenient
8 hours at a place designated by the board; provided
9 that:
- 10 (A) The board may require unit owners to furnish to
11 the association a duly executed and acknowledged
12 affidavit stating that the information is
13 requested in good faith for the protection of the
14 interests of the association, its members, or
15 both; and
- 16 (B) Unit owners shall pay for administrative costs in
17 excess of eight hours per year;
- 18 (12) Proxies, tally sheets, ballots, unit owners' check-in
19 lists, and the certificate of election subject to
20 section 514B-154(c);
- 21 (13) Copies of an association's documents, records, and
22 information, whether maintained, kept, or required to



1 be provided pursuant to this section or section

2 514B-152, 514B-153, or 514B-154;

3 (14) A copy of the management contract from the entity that

4 manages the operation of the property before the

5 organization of an association; and

6 (15) Other documents requested by a unit owner in writing;

7 provided that the board shall give written

8 authorization or written refusal with an explanation

9 of the refusal within thirty calendar days of receipt

10 of a request for documents pursuant to this paragraph.

11 (b) Subject to section 514B-105(d), copies of the items in

12 subsection (a) shall be provided to any unit owner upon the

13 owner's request; provided that the owner pays a reasonable fee

14 for duplication, postage, stationery, and other administrative

15 costs associated with handling the request.

16 (c) Notwithstanding any provision in the declaration,

17 bylaws, or house rules providing for another period of time, all

18 documents, records, and information listed under subsection (a),

19 whether maintained, kept, or required to be provided pursuant to

20 this section or section 514B-152, 514B-153, or 514B-154, shall

21 be provided no later than thirty days after receipt of a unit

22 owner's written request, unless a lesser time is provided



1 pursuant to this section or section 514B-152, 514B-153, or
2 514B-154, and except as provided in subsection (a)(15).

3 (d) Any documents, records, and information, whether
4 maintained, kept, or required to be provided pursuant to this
5 section or section 514B-152, 514B-153, or 514B-154, may be made
6 available electronically to the unit owner if the owner requests
7 such in writing.

8 (e) An association may comply with this section or section
9 514B-152, 514B-153, or 514B-154 by making the required
10 documents, records, and information available to unit owners for
11 download through an internet site, at the option of each unit
12 owner and at no cost to the unit owner.

13 (f) Any fee charged to a unit owner to obtain copies of
14 association's documents, records, and information, whether
15 maintained, kept, or required to be provided pursuant to this
16 section or section 514B-152, 514B-153, or 514B-154, shall be
17 reasonable; provided that a reasonable fee shall include
18 administrative and duplicating costs and shall not exceed \$1 per
19 page, or portion thereof, except that the fee for pages
20 exceeding eight and one-half inches by fourteen inches may
21 exceed \$1 per page.



1 (g) This section shall apply to all existing
2 condominiums."

3 SECTION 3. Section 514B-61, Hawaii Revised Statutes, is
4 amended by amending subsections (b) and (c) to read as follows:

5 "(b) If it appears that any person has engaged, is
6 engaging, or is about to engage in any act or practice in
7 violation of this part, part V, section 514B-103, 514B-132,
8 514B-134, 514B-149, sections 514B-152 to 514B-154, section
9 514B- , or any of the commission's related rules or orders,
10 the commission, without prior administrative proceedings, may
11 maintain an action in the appropriate court to enjoin that act
12 or practice or for other appropriate relief. The commission
13 shall not be required to post a bond or to prove that no
14 adequate remedy at law exists in order to maintain the action.

15 (c) The commission may exercise its powers in any action
16 involving the powers or responsibilities of a developer under
17 this part, part V, section 514B-103, 514B-132, 514B-134,
18 514B-149, [~~or~~] sections 514B-152 to 514B-154[~~or~~], or section
19 514B- ."

20 SECTION 4. Section 514B-65, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**[+]§514B-65[+]** **Investigative powers.** If the commission
2 has reason to believe that any person is violating or has
3 violated this part, part V, section 514B-103, 514B-132,
4 514B-134, 514B-149, sections 514B-152 to 514B-154, section
5 514B- , or the rules of the commission adopted pursuant
6 thereto, the commission may conduct an investigation of the
7 matter and examine the books, accounts, contracts, records, and
8 files of all relevant parties. For purposes of this
9 examination, the developer and the real estate broker shall keep
10 and maintain records of all sales transactions and of the funds
11 received by the developer and the real estate broker in
12 accordance with chapter 467 and the rules of the commission, and
13 shall make the records accessible to the commission upon
14 reasonable notice and demand."

15 SECTION 5. Section 514B-66, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**[+]§514B-66[+]** **Cease and desist orders.** In addition to
18 its authority under sections 514B-67 and 514B-68, whenever the
19 commission has reason to believe that any person is violating or
20 has violated this part, part V, section 514B-103, 514B-132,
21 514B-134, 514B-149, sections 514B-152 to 514B-154, section
22 514B- , or the rules of the commission adopted pursuant



1 thereto, it may issue and serve upon the person a complaint
2 stating its charges in that respect and containing a notice of a
3 hearing at a stated place and upon a day at least thirty days
4 after the service of the complaint. The person served has the
5 right to appear at the place and time specified and show cause
6 why an order should not be entered by the commission requiring
7 the person to cease and desist from the violation of the law or
8 rules charged in the complaint. If the commission finds that
9 this chapter or the rules of the commission have been or are
10 being violated, it shall make a report in writing stating its
11 findings as to the facts and shall issue and cause to be served
12 on the person an order requiring the person to cease and desist
13 from the violations. The person, within thirty days after
14 service upon the person of the report or order, may obtain a
15 review thereof in the appropriate circuit court."

16 SECTION 6. Section 514B-68, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§514B-68[+] **Power to enjoin.** Whenever the commission
19 believes from satisfactory evidence that any person has violated
20 this part, part V, section 514B-103, 514B-132, 514B-134,
21 514B-149, sections 514B-152 to 514B-154, section 514B- , or
22 the rules of the commission adopted pursuant thereto, it may



1 conduct an investigation of the matter and bring an action
2 against the person in any court of competent jurisdiction on
3 behalf of the State to enjoin the person from continuing the
4 violation or doing any acts in furtherance thereof."

5 SECTION 7. Section 514B-69, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§514B-69[+] **Penalties.** (a) Any person who violates or
8 fails to comply with this part, part V, section 514B-103,
9 514B-132, 514B-134, 514B-149, [~~or~~] sections 514B-152 to
10 514B-154, or section 514B-_____, shall be guilty of a misdemeanor
11 and shall be punished by a fine not exceeding \$10,000, or by
12 imprisonment for a term not exceeding one year, or both. Any
13 person who violates or fails to comply with any rule, order,
14 decision, demand, or requirement of the commission under this
15 part, part V, section 514B-103, 514B-132, 514B-134, 514B-149,
16 [~~or~~] sections 514B-152 to 514B-154, or section 514B-_____, shall
17 be punished by a fine not exceeding \$10,000.

18 (b) In addition to any other actions authorized by law,
19 any person who violates or fails to comply with this part,
20 part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections
21 514B-152 to 514B-154, section 514B-_____, or the rules of the
22 commission adopted pursuant thereto, shall also be subject to a



1 civil penalty not exceeding \$10,000 for any violation. Each
2 violation shall constitute a separate offense."

3 SECTION 8. Section 514B-152, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§514B-152[+]~~ **Association records; generally.** The
6 association shall keep financial and other records sufficiently
7 detailed to enable the association to comply with requests for
8 information and disclosures related to resale of units. Except
9 as otherwise provided by law, all financial and other records
10 shall be made [~~reasonably~~] available pursuant to section
11 514B- for examination by any unit owner and the owner's
12 authorized agents. Association records shall be stored on the
13 island on which the association's project is located; provided
14 that if original records, including but not limited to invoices,
15 are required to be sent off-island, copies of the records shall
16 be maintained on the island on which the association's project
17 is located."

18 SECTION 9. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 10. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 11. This Act shall take effect on July 1, 2112.



Report Title:

Condominiums; Unit Owners; Documents, Records, and Information;
Required Disclosures; Owner's Right to Receive Documents,
Records, and Information

Description:

Consolidates into one section under chapter 514B, Hawaii Revised Statutes, the documents, records, and information that must be made available to any unit owner and the unit owner's authorized agents and specifies that these documents, records, and information shall be provided to the unit owner no later than thirty days after receipt of a unit owner's written request. Effective 07/01/2112. (SD1)

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

