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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. Section 514B-56, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "~~§~~514B-56 ~~[+]~~ Developer's public report; amendments.  
4 (a) After the effective date for a developer's public report  
5 has been issued by the commission, if there are any changes,  
6 either material or pertinent changes, or both, regarding the  
7 information contained in or omitted from the developer's public  
8 report, or if the developer desires to update or change the  
9 information set forth in the developer's public report, the  
10 developer shall immediately submit to the commission an  
11 amendment to the developer's public report or an amended  
12 developer's public report clearly reflecting the change,  
13 together with such supporting information as may be required by  
14 the commission, to update the information contained in the  
15 developer's public report, accompanied by nonrefundable fees as  
16 provided in rules adopted by the director of commerce and  
17 consumer affairs pursuant to chapter 91. Within a reasonable



1 period of time, the commission shall issue an effective date for  
2 the amended developer's public report or take other appropriate  
3 action under this part.

4 (b) The submission of an amendment to the developer's  
5 public report or an amended developer's public report shall not  
6 require the developer to suspend sales, subject to the power of  
7 the commission to order sales to cease as set forth in section  
8 514B-66; provided that the developer shall advise the  
9 appropriate real estate broker or brokers, if any, of the change  
10 and disclose to purchasers any change in the information  
11 contained in the developer's public report pending the issuance  
12 of an effective date for any amendment to the developer's public  
13 report or amended developer's public report; ~~and~~ provided  
14 further that if the amended developer's public report is not  
15 issued within thirty days after its submission to the  
16 commission, the commission may order a suspension of sales  
17 pending the issuance of an effective date for the amended  
18 developer's public report. Nothing in this section shall  
19 diminish the rights of purchasers under section 514B-94.

20 (c) The developer shall provide all purchasers with a true  
21 copy of:



1 (1) The amendment to the developer's public report, if the  
2 purchaser has received copies of the developer's  
3 public report and all prior amendments, if any; or

4 (2) A restated developer's public report, including all  
5 amendments.

6 (d) The filing of an amendment to the developer's public  
7 report or an amended developer's public report, in and of  
8 itself, shall not be grounds for a purchaser to cancel or  
9 rescind a sales contract. A purchaser's right to cancel or  
10 rescind a sales contract shall be governed by sections 514B-86  
11 and 514B-87, the terms and conditions of the purchaser's  
12 contract for sale, and applicable common law.

13 (e) Notwithstanding any provision to the contrary, this  
14 section shall not apply to a time share project duly registered  
15 under chapter 514E, if with regard to that time share project:

16 (1) A copy of the disclosure statement required by chapter  
17 514E is required to be delivered to the purchaser or  
18 prospective purchaser; or

19 (2) Pursuant to section 514E-30, a copy of the disclosure  
20 statement required by chapter 514E is not required to  
21 be delivered to the purchaser or prospective purchaser



1           because the offer and sale of the time share interest  
2           is made outside of Hawaii."

3           SECTION 2. Act 181, Session Laws of Hawaii 2017, is  
4 amended by amending section 45 to read as follows:

5           "SECTION 45. (a) Condominium property regimes created  
6 [~~prior to~~] before July 1, 2006, that were issued an effective  
7 date pursuant to [~~section~~] sections 514A-40 and 514A-41, Hawaii  
8 Revised Statutes, may be sold on or after January 1, 2019,  
9 without revising any of the governing documents; provided that  
10 the developer's public report [~~was~~] is active [~~on January 1,~~  
11 ~~2019, and is~~] , non-expired, and accurate [~~and not misleading.~~  
12 ~~On~~] between January 1, 2019, [~~all active, non-expired chapter~~  
13 ~~514A, Hawaii Revised Statutes, developer's public reports~~  
14 ~~pursuant to sections 514A 40 and 514A 41, Hawaii Revised~~  
15 ~~Statutes,~~] and July 1, 2020.

16           (b) A chapter 514A, Hawaii Revised Statutes, developer's  
17 public report, along with [~~their~~] its most recent disclosure  
18 abstract, if any, [~~will~~] shall be treated as a non-expiring  
19 developer's public [~~reports~~] report under part IV of chapter  
20 514B, Hawaii Revised Statutes[~~-~~], on the first day the chapter



1 514A report is accurate and has an active effective date between  
2 January 1, 2019, and July 1, 2020.

3 (c) Should any pertinent or material changes, or both,  
4 occur to the condominium project, the developer shall file [~~an~~  
5 ~~amended~~] a developer's public report superseding all prior  
6 reports pursuant to [~~chapter 514B,~~] section 514B-56, Hawaii  
7 Revised Statutes; provided that such projects and their  
8 subsequent reports filed under chapter 514B, Hawaii Revised  
9 Statutes, shall be exempt from the conversion requirements under  
10 section 514B-84(a)(1) and (2), Hawaii Revised Statutes.

11 [~~Condominium~~]

12 (d) On July 1, 2020, condominium property regimes created  
13 [~~prior to~~] before July 1, 2006, that [~~were~~]:

14 (1) Were not issued an effective date pursuant to sections  
15 514A-40 and 514A-41, Hawaii Revised Statutes [~~, and~~  
16 ~~did~~];

17 (2) Did not file a notice of intent pursuant to section  
18 514A-1.5(2)(B), Hawaii Revised Statutes [~~;~~] or

19 (3) Had effective dates that expired before January 1,  
20 2019,



1 shall revise their governing documents and register under  
2 chapter 514B, Hawaii Revised Statutes, for a developer to offer  
3 for sale or to sell condominiums.

4 (e) A condominium property regime registered under chapter  
5 514A, Hawaii Revised Statutes, shall not be required to revise  
6 its governing documents to comply with chapter 514B, Hawaii  
7 Revised Statutes, for sales of time share interests if sales of  
8 time share interests are made in the condominium property  
9 regime.

10 (f) Nothing contained in this Act or in the condominium  
11 property act shall be deemed to invalidate any condominium  
12 property regime that was validly created under chapter 514A,  
13 Hawaii Revised Statutes, [~~prior to~~] before July 1, 2006.

14 (g) As used in this section, unless the context otherwise  
15 requires:

16 "514A report" means a developer's public report that is:

17 (1) Issued for a condominium property regime created  
18 before July 1, 2006, with an effective date pursuant  
19 to sections 514A-40 and 514A-41, Hawaii Revised  
20 Statutes; and



1           (2) Active, non-expired, and accurate between January 1,  
2                   2019, and July 1, 2020."

3           SECTION 3. Notwithstanding section 2 of Act 181, Session  
4 Laws of Hawaii 2017, and subject to section 4 of this Act, the  
5 following sections of chapter 514A, Hawaii Revised Statutes,  
6 shall remain operative in the form in which they read on  
7 December 31, 2018, until June 30, 2020, for the sole purpose of  
8 providing developers with sufficient time to update their  
9 developer's public reports and associated documents in order to  
10 qualify for the safe harbor provisions of section 45 of Act 181,  
11 Session Laws of Hawaii 2017, as amended by this Act:

12                   Part I. General Provisions and Definitions

- 13           514A-1     Title
- 14           514A-1.5   Applicability of chapter
- 15           514A-1.6   Conformance with county land use ordinances
- 16           514A-2     Chapter not exclusive
- 17           514A-3     Definitions
- 18           514A-4     Status of apartments
- 19           514A-5     Ownership of apartments
- 20           514A-6     Separate taxation

21                   Part II. Creation, Alteration, and Termination



- 1 of Condominiums
- 2 514A-11 Recordation and contents of declaration
- 3 514A-12 Copy of the floor plans to be filed
- 4 514A-13 Common elements
- 5 514A-13.6 Mailboxes for each dwelling required
- 6 514A-14 Parking stalls
- 7 514A-14.5 Ownership of parking stalls
- 8 514A-15 Common profits and expenses
- 9 514A-15.1 Common expenses; prior late charges
- 10 514A-15.5 Metering of utilities
- 11 514A-16 Liens against apartments; removal from lien;
- 12 effect of part payment
- 13 514A-17 Contents of deeds or leases of apartments
- 14 514A-18 Blanket mortgages and other blanket liens
- 15 affecting an apartment at time of first
- 16 conveyance or lease
- 17 514A-19 Merger of increments
- 18 514A-20 Condominium property regimes
- 19 514A-21 Removal from provisions of this chapter
- 20 Part III. Registration and Administration
- 21 514A-32 Questionnaire and filing fee





- 1           514A-33    Inspection
- 2           514A-34    Inspection expenses
- 3           514A-35    Waiver of inspection
- 4           514A-36    Public reports and registration fees
- 5           514A-38    Request for effective date or hearing by
- 6                    developer
- 7           514A-40    Final reports
- 8           514A-41    Supplementary public report
- 9           514A-42    True copies of public report; no misleading
- 10                   information
- 11           514A-43    Automatic expiration of public reports;
- 12                   exceptions
- 13           514A-44    Deposit of fees
- 14           514A-45    Supplemental regulations governing a condominium
- 15                   property regime
- 16           514A-46    Investigatory powers
- 17           514A-47    Cease and desist orders
- 18           514A-48    Power to enjoin
- 19           514A-49    Penalties
- 20           514A-50    Limitation of action
- 21                    Part IV.   Protection of Purchasers



- 1           514A-61    Disclosure requirements
- 2           514A-62    Copy of public report to be given to prospective
- 3                    purchaser
- 4           514A-63    Rescission rights
- 5           514A-64.5 Protection of purchasers' funds
- 6           514A-65    Escrow requirement
- 7           514A-67    Financing construction
- 8           514A-68    Misleading statements and omissions
- 9           514A-69    Remedies; sales voidable when and by whom
- 10          514A-70    Warranty against structural and appliance
- 11                    defects; notice of expiration required.

12           SECTION 4.   On July 1, 2020, the authority to extend the  
13 operation of the listed sections of chapter 514A, Hawaii Revised  
14 Statutes, that is provided under section 3 to allow developers  
15 to qualify for the safe harbor provisions of section 45 of Act  
16 181, Session Laws of Hawaii 2017, as amended by this Act, shall  
17 expire.

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

20           SECTION 6.   This Act shall take effect on July 1, 2050.



**Report Title:**

Condominiums; Condominium Property Regimes; Extension

**Description:**

Extends the safe harbor provisions found in section 45 of Act 181, Session Laws of Hawaii 2017, until 7/1/20 to provide sufficient time for condominium property regimes to update their developer's public reports. Clarifies that the sale of time share plans are permitted regardless of compliance with Act 181. (SB552 HD2)

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

