
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 unified state
2 investment in infrastructure is necessary to facilitate compact,
3 mixed-use, and accessible development near transit stations and
4 public transportation nodes. Such strategic investment can
5 facilitate the development of public and private lands to
6 revitalize neighborhoods and increase affordable housing
7 inventory, among other public benefits.

8 The purpose of this Act is to ensure public benefits are
9 realized when state resources and authorities facilitate
10 condominium development.

11 SECTION 2. Section 514B-95, Hawaii Revised Statutes, is
12 amended by adding two new definitions to be appropriately
13 inserted and to read as follows:

14 "Sixty-day period" or "sixty days" means sixty full
15 consecutive calendar days, including up to midnight on the
16 sixtieth day.



1 "State investment" means the use of state funds or state
2 development powers to facilitate the development of property for
3 residential use."

4 SECTION 3. Section 514B-95.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§514B-95.5[+] **Announcement or advertisement;**
7 **publication.** At least once in each of two successive weeks, and
8 at any time following the issuance of an effective date of the
9 first developer's public report for the condominium project, the
10 developer shall cause to be published in at least one newspaper
11 published daily in the State with a general circulation in the
12 county in which the project is to be located, and, if the
13 project is located other than on the island of Oahu, in at least
14 one newspaper that is published at least weekly in the county in
15 which the project is to be located, an announcement or
16 advertisement containing at least the following information:

- 17 (1) The location of the project;
- 18 (2) The minimum price of the residential units;
- 19 (3) A designation as to whether the residential units are
- 20 to be sold in fee simple or leasehold;



- 1 (4) A statement that for a thirty-day period following the
2 initial date of sale of the condominium project, at
3 least fifty per cent of the residential units being
4 marketed shall be offered only to prospective owner-
5 occupants[+] or, in the case of a state investment
6 project located within a county-designated transit-
7 oriented development area or within a one-half-mile
8 radius of a public transit station, if that area has
9 not been designated as a transit-oriented development
10 zone, for a sixty-day period following the initial
11 date of sale of the project, one hundred per cent of
12 the residential units being marketed shall be offered
13 only to prospective owner-occupants;
- 14 (5) The name, telephone number, and address of the
15 developer or other real estate broker designated by
16 the developer that an interested individual may
17 contact to secure an owner-occupant affidavit,
18 developer's public report, and any other information
19 concerning the project; and



1 (6) If applicable, a statement that the residential units
2 will be offered to prospective purchasers through a
3 public lottery."

4 SECTION 4. Section 514B-96, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The developer of any project containing residential
7 units shall designate at least fifty per cent of the units for
8 sale to prospective owner-occupants pursuant to section
9 514B-98[-]; provided that in the case of a state investment
10 project located within a county-designated transit-oriented
11 development area or within a one-half-mile radius of a public
12 transit station, if that area has not been designated as a
13 transit-oriented development zone, one hundred per cent of the
14 units being sold shall be offered for sale only to prospective
15 owner-occupants. The designation shall be set forth either in
16 the developer's public report or in the announcement or
17 advertisement required by section 514B-95.5, and may be set
18 forth in both. The units in a project with fifty per cent
19 designated units shall constitute a proportionate representation
20 of all the residential units in the project with regard to



1 factors of square footage, number of bedrooms and bathrooms,
2 floor level, and whether or not the unit has a lanai."

3 SECTION 5. Section 514B-96.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[f]§514B-96.5[+] **Unit selection; requirements.** (a) When
6 the chronological system is used, the developer or the
7 developer's real estate broker, as the case may be, shall offer
8 the residential units that have been designated pursuant to
9 section 514B-96 as follows:

- 10 (1) For thirty days from the date of the first published
- 11 announcement or advertisement required under section
- 12 514B-95.5, or, in the case of a state investment
- 13 project located within a county-designated transit-
- 14 oriented development area or within a one-half-mile
- 15 radius of a public transit station, if that area has
- 16 not been designated as a transit-oriented development
- 17 zone, for sixty days from the date of the first
- 18 published announcement or advertisement required under
- 19 section 514B-95.5, the developer or developer's real
- 20 estate broker shall offer the residential units that
- 21 have been designated pursuant to section 514B-96 to



1 prospective purchasers chronologically in the order in
2 which they submit to the developer or the developer's
3 real estate broker, a completed owner-occupant
4 affidavit, an executed sales contract or reservation,
5 and an earnest money deposit in a reasonable amount
6 designated by the developer. The developer or the
7 developer's real estate broker shall maintain at all
8 times a sufficient number of sales contracts and
9 affidavits for prospective owner-occupants to execute
10 and shall make them first available to prospective
11 owner-occupants on the day immediately following the
12 date of the first publication of the announcement or
13 advertisement for the duration of the time period as
14 specified in this paragraph. Prospective purchasers
15 who do not have the opportunity to select a
16 residential unit during the [~~thirty-day~~] applicable
17 period shall be placed on a back-up reservation list
18 in the order in which they submit a completed owner-
19 occupant affidavit and earnest money deposit in a
20 reasonable amount designated by the developer;



- 1 (2) If two or more prospective owner-occupants intend to
2 reside jointly in the same residential unit, only one
3 residential unit designated pursuant to section
4 514B-96 shall be offered to them, or only one of them
5 shall be placed on the backup reservation list;
- 6 (3) No developer, employee or agent of the developer, or
7 any real estate licensee, either directly or through
8 any other person, shall release any information or
9 inform any prospective owner-occupant about the
10 publication announcement or advertisement referred to
11 in section 514B-95.5, including the date it is to
12 appear and when the chronological system will be
13 initiated, until after the announcement or
14 advertisement is published; provided that a developer,
15 as part of any preregistration solicitation permitted
16 under section 514B-85, may disclose whether units will
17 be offered to owner-occupants pursuant to this subpart
18 and whether a chronological or lottery system will be
19 used; and
- 20 (4) The developer shall compile and maintain a list of all
21 prospective purchasers that submit a completed owner-



1 occupant affidavit, an executed sales contract or
2 reservation, and an earnest money deposit, and
3 maintain a back-up reservation list, if any. Upon the
4 request of the commission, the developer shall provide
5 a copy of the list of all prospective purchasers and
6 the back-up reservation list.

7 (b) When the public lottery system is used, the developer
8 or the developer's broker, as the case may be, shall offer the
9 residential units that have been designated pursuant to section
10 514B-96 as follows:

11 (1) From the date of the first published announcement or
12 advertisement required under section 514B-95.5 until
13 five calendar days after the last published
14 announcement or advertisement, the developer or
15 developer's real estate broker shall compile and
16 maintain a list of all prospective owner-occupants who
17 have submitted to the developer or the developer's
18 real estate broker a duly executed owner-occupant
19 affidavit. All prospective owner-occupants on this
20 list shall be included in the public lottery described
21 in paragraph (2). The developer and the developer's



1 real estate broker shall maintain at all times
2 sufficient copies of affidavits for prospective owner-
3 occupants to execute and shall make them first
4 available to prospective owner-occupants on the day
5 immediately following the date of the first
6 publication of the announcement or advertisement for
7 the duration of the time period as specified in this
8 subsection. Upon the request of the commission, the
9 developer shall provide a copy of the lottery list of
10 prospective owner-occupants;

11 (2) The developer or developer's real estate broker shall
12 conduct a public lottery on the date, time, and
13 location as set forth in the published announcement,
14 or advertisement. The lottery shall be held no later
15 than the thirtieth day following the date of the first
16 published announcement or advertisement[-]; or, in the
17 case of a state investment project located within a
18 county-designated transit-oriented development area or
19 within a one-half-mile radius of a public transit
20 station, if that area has not been designated as a
21 transit-oriented development zone, no later than the



1 sixtieth day following the date of the first published
2 announcement or advertisement. Any person, including
3 all prospective owner-occupants eligible for the
4 lottery, shall be allowed to attend the lottery;

5 (3) The public lottery shall be conducted so that no
6 prospective owner-occupant shall have an unfair
7 advantage and, as to all owner-occupants whose
8 affidavits were submitted to the developer or the
9 developer's real estate broker within the time period
10 specified in paragraph (1), shall be conducted without
11 regard to the order in which the affidavits were
12 submitted. If two or more prospective owner-occupants
13 intend to reside jointly in the same residential unit,
14 only one of them shall be entitled to enter the public
15 lottery; and

16 (4) After the public lottery, each prospective owner-
17 occupant purchaser, in the order in which they are
18 selected in the lottery, shall be given the
19 opportunity to select one of the residential units
20 that have been designated pursuant to section 514B-96,
21 execute a sales contract, and submit an earnest money



1 deposit in a reasonable amount designated by the
2 developer. The developer shall maintain a list, in
3 the order of selection, of all prospective purchasers
4 selected in the lottery, and maintain a list of all
5 prospective purchasers who selected one of the
6 residential units designated pursuant to section
7 514B-96. Prospective purchasers selected in the
8 lottery who did not have the opportunity to select one
9 of the residential units designated pursuant to
10 section 514B-96, but who submitted an earnest money
11 deposit in a reasonable amount designated by the
12 developer, shall be placed on a back-up reservation
13 list in the order in which they were selected in the
14 public lottery. Upon request of the commission,
15 copies of the lists shall be submitted."

16 SECTION 6. Section 514B-98, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) For a thirty-day period following the initial date of
19 sale of units in a condominium project, at least fifty per cent
20 of the units being sold shall be offered for sale only to
21 prospective owner-occupants; provided that notwithstanding this



1 subpart, in the case of a project that includes one or more
 2 existing structures being converted to condominium status, each
 3 residential unit contained in the project first shall be offered
 4 for sale to any individual occupying the unit immediately prior
 5 to the conversion and who submits an owner-occupant affidavit
 6 and an earnest money deposit in a reasonable amount designated
 7 by the developer[-]; provided further that notwithstanding this
 8 subpart, in the case of a state investment project located
 9 within a county-designated transit-oriented development area or
 10 within a one-half-mile radius of a public transit station, if
 11 that area has not been designated as a transit-oriented
 12 development zone, for a sixty-day period following the initial
 13 date of sale of units in a condominium project, one hundred per
 14 cent of the units being sold shall be offered for sale only to
 15 prospective owner-occupants."

16 SECTION 7. Section 514B-99.5, Hawaii Revised Statutes, is
 17 amended by amending subsection (a) to read as follows:

18 "(a) This subpart shall not apply to:

- 19 (1) A project developed pursuant to section 46-15 or
- 20 46-15.1, or chapter 53, 201H, 206, 346, or 356D;
- 21 provided that the developer of the project may elect



1 to be subject to this subpart through a written
 2 notification to the commission; provided that if the
 3 state investment project is located within a county-
 4 designated transit-oriented development area or within
 5 a one-half-mile radius of a public transit station, if
 6 that area has not been designated as a transit-
 7 oriented development zone, the developer shall not
 8 waive the provisions of sections 514B-95.5, 514B-
 9 96(a), 514B-96.5, and 514B-98(b);

10 (2) Condominium projects where the developer conveys all
 11 of the residential units in the project to a spouse,
 12 or family members related by blood, descent or
 13 adoption; and

14 (3) Condominium projects consisting of two or fewer
 15 units."

16 SECTION 8. This Act shall not affect rights, duties, and
 17 obligations that have matured through a signed contract or
 18 disclosure by way of a preliminary offering statement filed with
 19 the real estate commission before its effective date.

20 SECTION 9. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Sam*

JAN 24 2019



H.B. NO. 1479

Report Title:

Condominium Sales; Owner-Occupants; State Investments; Transit-Oriented Development

Description:

Restricts sales of residential condominiums developed with state investment within a transit-oriented area to only owner-occupants for 60 days after the initial date of sale for the project.

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

