
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 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. Strategic investment can
5 facilitate the development of public and private lands,
6 revitalize neighborhoods, and increase affordable housing
7 inventory, among other public benefits.

8 The purpose of this Act is to ensure that public benefits
9 are 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 at least a sixty-day period following the
11 initial date of sale of the project, one hundred per
12 cent of the residential units being marketed shall be
13 offered 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 "[+]§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 at least sixty days from the date of the
18 first published announcement or advertisement required
19 under section 514B-95.5, the developer or developer's
20 real estate broker shall offer the residential units
21 that have been designated pursuant to section 514B-96



1 to prospective purchasers chronologically in the order
2 in which they submit to the developer or the
3 developer's real estate broker, a completed owner-
4 occupant affidavit, an executed sales contract or
5 reservation, and an earnest money deposit in a
6 reasonable amount designated by the developer. The
7 developer or the developer's real estate broker shall
8 maintain at all times a sufficient number of sales
9 contracts and affidavits for prospective owner-
10 occupants to execute and shall make them first
11 available to prospective owner-occupants on the day
12 immediately following the date of the first
13 publication of the announcement or advertisement for
14 the duration of the time period as specified in this
15 paragraph. Prospective purchasers who do not have the
16 opportunity to select a residential unit during the
17 [~~thirty day~~] applicable period shall be placed on a
18 back-up reservation list in the order in which they
19 submit a completed owner-occupant affidavit and
20 earnest money deposit in a reasonable amount
21 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~~] the prospective
5 owner-occupants, or only one of [~~them~~] the prospective
6 owner-occupants shall be placed on the backup
7 reservation list;
- 8 (3) No developer, employee or agent of the developer, or
9 any real estate licensee, either directly or through
10 any other person, shall release any information or
11 inform any prospective owner-occupant about the
12 publication announcement or advertisement referred to
13 in section 514B-95.5, including the date it is to
14 appear and when the chronological system will be
15 initiated, until after the announcement or
16 advertisement is published; provided that a developer,
17 as part of any preregistration solicitation permitted
18 under section 514B-85, may disclose whether units will
19 be offered to owner-occupants pursuant to this subpart
20 and whether a chronological or lottery system will be
21 used; and



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

9 (b) When the public lottery system is used, the developer
10 or the developer's broker, as the case may be, shall offer the
11 residential units that have been designated pursuant to section
12 514B-96 as follows:

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



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

- 13 (2) The developer or developer's real estate broker shall
14 conduct a public lottery on the date, time, and
15 location as set forth in the published announcement ~~[7]~~
16 or advertisement. The lottery shall be held no later
17 than the thirtieth day following the date of the first
18 published announcement or advertisement ~~[7]~~; or, in the
19 case of a state investment project located within a
20 county-designated transit-oriented development area or
21 within a one-half-mile radius of a public transit



1 station if that area has not been designated as a
2 transit-oriented development zone, no later than the
3 sixtieth day following the date of the first published
4 announcement or advertisement. Any person, including

5 all prospective owner-occupants eligible for the
6 lottery, shall be allowed to attend the lottery;

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

18 (4) After the public lottery, each prospective owner-
19 occupant purchaser, in the order in which they are
20 selected in the lottery, shall be given the
21 opportunity to select one of the residential units



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

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

20 "(b) For a thirty-day period following the initial date of
21 sale of units in a condominium project, at least fifty per cent



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

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

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



- 1 (1) A project developed pursuant to section 46-15 or
2 46-15.1, or chapter 53, 201H, 206, 346, or 356D;
3 provided that the developer of the project may elect
4 to be subject to this subpart through a written
5 notification to the commission; provided that if the
6 state investment project is located within a county-
7 designated transit-oriented development area or within
8 a one-half-mile radius of a public transit station if
9 that area has not been designated as a transit-
10 oriented development zone, the developer shall not
11 waive the provisions of sections 514B-95.5, 514B-
12 96(a), 514B-96.5, and 514B-98(b);
- 13 (2) Condominium projects where the developer conveys all
14 of the residential units in the project to a spouse,
15 or family members related by blood, descent or
16 adoption; and
- 17 (3) Condominium projects consisting of two or fewer
18 units."

19 SECTION 8. This Act shall not affect rights, duties, and
20 obligations that have matured through a signed contract or



1 disclosure by way of a preliminary offering statement filed with
2 the real estate commission before its effective date.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 2019.

6

7



Report Title:

Condominium; Owner-Occupants; Transit-oriented Development

Description:

Restricts sales of residential condominiums developed with state investment within a transit-oriented development area or within a one-half-mile radius of a public transit station to only prospective owner-occupants for at least 60 days after the initial date of sale for the project. (SD1)

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

