
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 " [f] §514B-56 [f] **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, should
14 any pertinent or material changes, or both, occur to a
15 condominium that contains a time share plan duly registered
16 under chapter 514E, it shall not be necessary to file an
17 amendment to the developer's public report or an amended
18 developer's public report to reflect any such changes if, with
19 regard to that time share plan:



1 (1) A copy of the disclosure statement required by chapter
2 514E is required to be delivered to the purchaser or
3 prospective purchaser; or

4 (2) Pursuant to section 514E-30, a copy of the disclosure
5 statement required by chapter 514E is not required to
6 be delivered to the purchaser or prospective purchaser
7 because the offer and sale of the time share interest
8 is made outside of Hawaii.

9 This subsection may not be used to circumvent the
10 application of the registration and public report requirements
11 of this chapter to the offer or sale by a condominium developer
12 of units other than time share units. A sale to a single person
13 of all time share interests in a given time share unit shall be
14 treated as a sale of a whole resort condominium unit except in
15 the case of a bulk sale or transfer."

16 SECTION 2. Act 181, Session Laws of Hawaii 2017, is
17 amending by adding two new sections to read as follows:

18 "SECTION . Notwithstanding any provision to the
19 contrary, should there be any pertinent or material changes, or
20 both, to a condominium established under chapter 514A, Hawaii
21 Revised Statutes, that contains a time share plan duly



1 registered under chapter 514E, Hawaii Revised Statutes, it shall
2 not be necessary to revise the governing documents of the
3 condominium to comply with chapter 514B, Hawaii Revised
4 Statutes.

5 SECTION . Notwithstanding any provision to the contrary,
6 should there be any pertinent or material changes, or both, to a
7 condominium established under chapter 514A, Hawaii Revised
8 Statutes, that contains a time share plan duly registered under
9 chapter 514E, Hawaii Revised Statutes, it shall not be necessary
10 to register the condominium pursuant to chapter 514B, Hawaii
11 Revised Statutes, or to update or amend any existing public
12 report to reflect any such changes if, with regard to that time
13 share plan:

- 14 (1) A copy of the disclosure statement required by chapter
15 514E, Hawaii Revised Statutes, is required to be
16 delivered to the purchaser or prospective purchaser;
17 or
18 (2) Pursuant to section 514E-30, Hawaii Revised Statutes,
19 a copy of the disclosure statement required by chapter
20 514E, Hawaii Revised Statutes, is not required to be
21 delivered to the purchaser or prospective purchaser



1 because the offer and sale of the time share interest
2 is made outside of Hawaii. This paragraph may not be
3 used to circumvent the application of the registration
4 and public report requirements of chapter 514B, Hawaii
5 Revised Statutes, to the offer or sale by a
6 condominium developer of units other than time share
7 units. A sale to a single person of all time share
8 interests in a given time share unit shall be treated
9 as a sale of a whole resort condominium unit except in
10 the case of a bulk sale or transfer."

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

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



1 sections 514A-40 and 514A-41, Hawaii Revised Statutes, along
2 with their most recent disclosure abstract, if any, will be
3 treated as non-expiring developer's public reports under part IV
4 of chapter 514B, Hawaii Revised Statutes. Chapter 514A, Hawaii
5 Revised Statutes, developer's public reports shall be treated as
6 non-expiring chapter 514B, Hawaii Revised Statutes, developer's
7 reports on the first day their respective report was accurate
8 and had an active effective date between January 1, 2019, and
9 July 1, 2020. Should any pertinent or material changes, or
10 both, occur to the condominium project, the developer shall file
11 [~~an amended~~] a developer's public report superseding all prior
12 reports pursuant to chapter 514B, Hawaii Revised Statutes;
13 provided that such projects and their subsequent reports filed
14 under chapter 514B, Hawaii Revised Statutes, shall be exempt
15 from the conversion requirements under section 514B-84(a)(1) and
16 (2), Hawaii Revised Statutes. [~~Condominium~~] On July 1, 2020,
17 condominium property regimes created prior to July 1, 2006, that
18 were not issued an effective date pursuant to sections 514A-40
19 and 514A-41, Hawaii Revised Statutes, [~~and~~] did not file a
20 notice of intent pursuant to section 514A-1.5(2)(B), Hawaii
21 Revised Statutes, or have effective dates expired prior to



1 January 1, 2019, shall revise their governing documents and
2 register under chapter 514B, Hawaii Revised Statutes, for a
3 developer to offer for sale or to sell condominiums.

4 Nothing contained in this Act or in the condominium
5 property act shall be deemed to invalidate any condominium
6 property regime that was validly created under chapter 514A,
7 Hawaii Revised Statutes, prior to July 1, 2006."

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

17 Part I. General Provisions and Definitions

- 18 514A-1 Title
- 19 514A-1.5 Applicability of chapter
- 20 514A-1.6 Conformance with county land use ordinances
- 21 514A-2 Chapter not exclusive



- 1 514A-3 Definitions
- 2 514A-4 Status of apartments
- 3 514A-5 Ownership of apartments
- 4 514A-6 Separate taxation
- 5 Part II. Creation, Alteration, and Termination
- 6 of Condominiums
- 7 514A-11 Recordation and contents of declaration
- 8 514A-12 Copy of the floor plans to be filed
- 9 514A-13 Common elements
- 10 514A-13.6 Mailboxes for each dwelling required
- 11 514A-14 Parking stalls
- 12 514A-14.5 Ownership of parking stalls
- 13 514A-15 Common profits and expenses
- 14 514A-15.1 Common expenses; prior late charges
- 15 514A-15.5 Metering of utilities
- 16 514A-16 Liens against apartments; removal from lien;
- 17 effect of part payment
- 18 514A-17 Contents of deeds or leases of apartments
- 19 514A-18 Blanket mortgages and other blanket liens
- 20 affecting an apartment at time of first
- 21 conveyance or lease



- 1 514A-19 Merger of increments
- 2 514A-20 Condominium property regimes
- 3 514A-21 Removal from provisions of this chapter
- 4 Part III. Registration and Administration
- 5 514A-32 Questionnaire and filing fee
- 6 514A-33 Inspection
- 7 514A-34 Inspection expenses
- 8 514A-35 Waiver of inspection
- 9 514A-36 Public reports and registration fees
- 10 514A-38 Request for effective date or hearing by
- 11 developer
- 12 514A-40 Final reports
- 13 514A-41 Supplementary public report
- 14 514A-42 True copies of public report; no misleading
- 15 information
- 16 514A-43 Automatic expiration of public reports;
- 17 exceptions
- 18 514A-44 Deposit of fees
- 19 514A-45 Supplemental regulations governing a condominium
- 20 property regime
- 21 514A-46 Investigatory powers



- 1 514A-47 Cease and desist orders
- 2 514A-48 Power to enjoin
- 3 514A-49 Penalties
- 4 514A-50 Limitation of action
- 5 Part IV. Protection of Purchasers
- 6 514A-61 Disclosure requirements
- 7 514A-62 Copy of public report to be given to prospective
- 8 purchaser
- 9 514A-63 Rescission rights
- 10 514A-64.5 Protection of purchasers' funds
- 11 514A-65 Escrow requirement
- 12 514A-67 Financing construction
- 13 514A-68 Misleading statements and omissions
- 14 514A-69 Remedies; sales voidable when and by whom
- 15 514A-70 Warranty against structural and appliance
- 16 defects; notice of expiration required
- 17 SECTION 5. On July 1, 2020, the authority to extend the
- 18 operation of the listed sections of chapter 514A, Hawaii Revised
- 19 Statutes, that is provided under section 4 to allow developers
- 20 to qualify for the safe harbor provisions of section 45 of Act



1 181, Session Laws of Hawaii 2017, as amended by this Act, shall
2 expire.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Condominiums; Condominium Property Regimes; Time Share Plans;
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. Excludes time share plans from the developer public reporting and related requirements. (HB811 HD1)

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

