

A Bill for an Act Relating to Solar Energy Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The current statutory definition of a “solar energy device” applicable to condominium projects specifically excludes skylights and windows. However, with the ever-evolving technology and innovative nature of renewable energy, the law must also evolve to capture the use of the latest advancements in renewable energy technologies. The exclusion of skylights and windows also creates an ambiguity in Hawaii’s statutes. For example, it is not clear whether building-integrated photovoltaics, such as electricity-producing photovoltaic windows, fall under the existing definition of a “solar energy device.”

The purpose of this Act is to further facilitate the development of green condominium projects throughout Hawaii by clarifying the conditions under which condominium unit owners can install solar energy devices.

SECTION 2. Section 514B-140, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Subject to the provisions of the declaration, nonmaterial additions to or alterations of the common elements or units, including, without limitation, additions to or alterations of a unit made within the unit or within a limited common element appurtenant to and for the exclusive use of the unit, shall require approval only by the board, which shall not unreasonably withhold the approval, and such percentage, number, or group of unit owners as may be required by the declaration or bylaws; provided that [the]:

- (1) The installation of solar energy devices by owners of condominium units shall be allowed upon written consent of the board; and
- (2) The installation of solar energy devices shall be allowed on single-family residential dwellings or townhouses pursuant to the provisions in section 196-7.

As used in this subsection:

“Building-applied photovoltaic” means any new identifiable facility, equipment, apparatus, or the like, which turns solar energy into electric energy and is applied to the outside of a building, such as roof-mounted photovoltaic solar panels.

“Building-integrated photovoltaic” means any new identifiable facility, equipment, apparatus, or the like, which generates electricity from solar energy and is integrated into the structural elements of a building, such as photovoltaic windows and skylights.

“Nonmaterial additions and alterations” means an addition to or alteration of the common elements or a unit that does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement, detract from the appearance of the project, interfere with or deprive any nonconsenting owner of the use or enjoyment of any part of property, or directly affect any nonconsenting owner.

“Passive solar skylights or windows” means any skylight or window that regulates heating and cooling but does not generate electricity from solar energy.

“Solar energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation[;], including but not limited to all types of building-applied photovoltaics and building-integrated photovoltaics; provided that if the equipment sold

cannot be used as a solar device without its incorporation with other equipment, it shall be installed in place and be ready to be made operational in order to qualify as a “solar energy device”; provided further that “solar energy device” shall not include passive solar skylights or windows.

“Townhouse” means a series of individual houses, having architectural unity and a common wall between each unit[;]; provided that each unit extends from the ground to the roof.”

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

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 2019.)