
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 large percentage
2 of persons in Hawaii live in condominiums and are members of
3 their condominium unit owners' association. The legislature
4 further finds that under existing statute, condominium unit
5 owners are entitled to receive a variety of documents, records,
6 and information from a condominium association, board, or
7 managing agent within thirty days of receipt of the unit owner's
8 written request. However, the legislature also finds that
9 references to releasing these required documents, records, and
10 information appear throughout chapter 514B, Hawaii Revised
11 Statutes, which may lead to confusion among unit owners.

12 Therefore, the purpose of this Act is to create a new
13 section under chapter 514B, Hawaii Revised Statutes, that:

14 (1) Clarifies the documents, records, and information that
15 must be made available to any unit owner and the unit
16 owner's authorized agents; and

17 (2) Specifies that all documents, records, and information
18 shall be provided to a unit owner no later than thirty



1 days after receipt of the unit owner's written
2 request.

3 The legislature notes that nothing in this Act creates new
4 requirements for the release of documents, records, or
5 information. Rather, this Act merely consolidates into one
6 section the existing requirements for documents, records, and
7 information that already must be released or provided to unit
8 owners, within thirty days, under existing statute.

9 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§514B- Association documents to be provided. (a)
13 Notwithstanding any other provision in the declaration, bylaws,
14 or house rules, if any, the following documents, records, and
15 information, whether maintained, kept, or required to be
16 provided pursuant to this section or section 514B-152, 514B-153,
17 or 514B-154, shall be made available to any unit owner and the
18 owner's authorized agents by the managing agent, resident
19 manager, board through a board member, or the association's
20 representative:



- 1 (1) All financial and other records sufficiently detailed
2 in order to comply with requests for information and
3 disclosures related to the resale of units;
- 4 (2) An accurate copy of the declaration, bylaws, house
5 rules, if any, master lease, if any, a sample original
6 conveyance document, and all public reports and any
7 amendments thereto;
- 8 (3) Detailed, accurate records in chronological order of
9 the receipts and expenditures affecting the common
10 elements, specifying and itemizing the maintenance and
11 repair expenses of the common elements and any other
12 expenses incurred and monthly statements indicating
13 the total current delinquent dollar amount of any
14 unpaid assessments for common expenses;
- 15 (4) All records and the vouchers authorizing the payments
16 and statements kept and maintained at the address of
17 the project, or elsewhere within the State as
18 determined by the board, subject to section 514B-152;
- 19 (5) All signed and executed agreements for managing the
20 operation of the property, expressing the agreement of
21 all parties, including but not limited to financial
22 and accounting obligations, services provided, and any



- 1 compensation arrangements, including any subsequent
2 amendments;
- 3 (6) An accurate and current list of members of the
4 condominium association and the members' current
5 addresses and the names and addresses of the vendees
6 under an agreement of sale, if any. A copy of the
7 list shall be available, at cost, to any unit owner or
8 owner's authorized agent who furnishes to the managing
9 agent, resident manager, or the board a duly executed
10 and acknowledged affidavit stating that the list:
- 11 (A) Shall be used by the unit owner or owner's
12 authorized agent personally and only for the
13 purpose of soliciting votes or proxies or for
14 providing information to other unit owners with
15 respect to association matters; and
- 16 (B) Shall not be used by the unit owner or owner's
17 authorized agent or furnished to anyone else for
18 any other purpose;
- 19 (7) The association's most current financial statement, at
20 no cost or on twenty-four-hour loan, at a convenient
21 location designated by the board;



- 1 (8) Meeting minutes of the association, pursuant to
- 2 section 514B-122;
- 3 (9) Meeting minutes of the board, pursuant to section
- 4 514B-126, which shall be:
- 5 (A) Available for examination by unit owners or
- 6 owners' authorized agents at no cost or on
- 7 twenty-four-hour loan at a convenient location at
- 8 the project, to be determined by the board; or
- 9 (B) Transmitted to any unit owner or owner's
- 10 authorized agent making a request for the minutes
- 11 within fifteen days of receipt of the request by
- 12 the owner or owner's authorized agent; provided
- 13 that:
- 14 (i) The minutes shall be transmitted by mail,
- 15 electronic mail transmission, or facsimile,
- 16 by the means indicated by the owner or
- 17 owner's authorized agent, if the owner or
- 18 owner's authorized agent indicated a
- 19 preference at the time of the request; and
- 20 (ii) The owner or owner's authorized agent shall
- 21 pay a reasonable fee for administrative



1 costs associated with handling the request,
2 subject to section 514B-105(d);
3 (10) Financial statements, general ledgers, the accounts
4 receivable ledger, accounts payable ledgers, check
5 ledgers, insurance policies, contracts, and invoices
6 of the association for the duration those records are
7 kept by the association, and any documents regarding
8 delinquencies of ninety days or more shall be
9 available for examination by unit owners or owners'
10 authorized agents at convenient hours at a place
11 designated by the board; provided that:
12 (A) The board may require unit owners or owners'
13 authorized agents to furnish to the association a
14 duly executed and acknowledged affidavit stating
15 that the information is requested in good faith
16 for the protection of the interests of the
17 association, its members, or both; and
18 (B) Unit owners or owners' authorized agents shall
19 pay for administrative costs in excess of eight
20 hours per year;



- 1 (11) Proxies, tally sheets, ballots, unit owners' check-in
2 lists, and the certificate of election subject to
3 section 514B-154(c);
- 4 (12) Copies of an association's documents, records, and
5 information, whether maintained, kept, or required to
6 be provided pursuant to this section or section
7 514B-152, 514B-153, or 514B-154;
- 8 (13) A copy of the management contract from the entity that
9 manages the operation of the property before the
10 organization of an association; and
- 11 (14) Other documents requested by a unit owner or owner's
12 authorized agent in writing; provided that the board
13 shall give written authorization or written refusal
14 with an explanation of the refusal within thirty
15 calendar days of receipt of a request for documents
16 pursuant to this paragraph.
- 17 (b) Subject to section 514B-105(d), copies of the items in
18 subsection (a) shall be provided to any unit owner or owner's
19 authorized agent upon the owner's or owner's authorized agent's
20 request; provided that the owner or owner's authorized agent
21 pays a reasonable fee for duplication, postage, stationery, and
22 other administrative costs associated with handling the request.



1 (c) Notwithstanding any provision in the declaration,
2 bylaws, or house rules providing for another period of time, all
3 documents, records, and information listed under subsection (a),
4 whether maintained, kept, or required to be provided pursuant to
5 this section or section 514B-152, 514B-153, or 514B-154, shall
6 be provided no later than thirty days after receipt of a unit
7 owner's or owner's authorized agent's written request, unless a
8 lesser time is provided pursuant to this section or section
9 514B-152, 514B-153, or 514B-154, and except as provided in
10 subsection (a)(14).

11 (d) Any documents, records, and information, whether
12 maintained, kept, or required to be provided pursuant to this
13 section or section 514B-152, 514B-153, or 514B-154, may be made
14 available electronically to the unit owner or owner's authorized
15 agent if the owner or owner's authorized agent requests such in
16 writing.

17 (e) An association may comply with this section or section
18 514B-152, 514B-153, or 514B-154 by making the required
19 documents, records, and information available to unit owners or
20 owners' authorized agents for download through an internet site,
21 at the option of each unit owner or owner's authorized agent and
22 at no cost to the unit owner or owner's authorized agent.



1 (f) Any fee charged to a unit owner or owner's authorized
2 agent to obtain copies of the association's documents, records,
3 and information, whether maintained, kept, or required to be
4 provided pursuant to this section or section 514B-152, 514B-153,
5 or 514B-154, shall be reasonable; provided that a reasonable fee
6 shall include administrative and duplicating costs and shall not
7 exceed \$1 per page, or portion thereof, except that the fee for
8 pages exceeding eight and one-half inches by fourteen inches may
9 exceed \$1 per page.

10 (g) This section shall apply to condominiums organized
11 under chapter 514A or 514B.

12 (h) Nothing in this section shall be construed to create
13 any new requirements for the release of documents, records, or
14 information."

15 SECTION 3. Section 514B-61, Hawaii Revised Statutes, is
16 amended by amending subsections (b) and (c) to read as follows:

17 "(b) If it appears that any person has engaged, is
18 engaging, or is about to engage in any act or practice in
19 violation of this part, part V, section 514B-103, 514B-132,
20 514B-134, 514B-149, sections 514B-152 to 514B-154, section
21 514B- , or any of the commission's related rules or orders,
22 the commission, without prior administrative proceedings, may



1 maintain an action in the appropriate court to enjoin that act
2 or practice or for other appropriate relief. The commission
3 shall not be required to post a bond or to prove that no
4 adequate remedy at law exists in order to maintain the action.

5 (c) The commission may exercise its powers in any action
6 involving the powers or responsibilities of a developer under
7 this part, part V, section 514B-103, 514B-132, 514B-134,
8 514B-149, ~~or~~ sections 514B-152 to 514B-154 ~~[-]~~, or section
9 514B-_____."

10 SECTION 4. Section 514B-65, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+] §514B-65 [+] **Investigative powers.** If the commission
13 has reason to believe that any person is violating or has
14 violated this part, part V, section 514B-103, 514B-132,
15 514B-134, 514B-149, sections 514B-152 to 514B-154, section
16 514B-_____, or the rules of the commission adopted pursuant
17 thereto, the commission may conduct an investigation of the
18 matter and examine the books, accounts, contracts, records, and
19 files of all relevant parties. For purposes of this
20 examination, the developer and the real estate broker shall keep
21 and maintain records of all sales transactions and of the funds
22 received by the developer and the real estate broker in



1 accordance with chapter 467 and the rules of the commission, and
2 shall make the records accessible to the commission upon
3 reasonable notice and demand."

4 SECTION 5. Section 514B-66, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~f~~] §514B-66[~~f~~] **Cease and desist orders.** In addition to
7 its authority under sections 514B-67 and 514B-68, whenever the
8 commission has reason to believe that any person is violating or
9 has violated this part, part V, section 514B-103, 514B-132,
10 514B-134, 514B-149, sections 514B-152 to 514B-154, section
11 514B-_____, or the rules of the commission adopted pursuant
12 thereto, it may issue and serve upon the person a complaint
13 stating its charges in that respect and containing a notice of a
14 hearing at a stated place and upon a day at least thirty days
15 after the service of the complaint. The person served has the
16 right to appear at the place and time specified and show cause
17 why an order should not be entered by the commission requiring
18 the person to cease and desist from the violation of the law or
19 rules charged in the complaint. If the commission finds that
20 this chapter or the rules of the commission have been or are
21 being violated, it shall make a report in writing stating its
22 findings as to the facts and shall issue and cause to be served



1 on the person an order requiring the person to cease and desist
2 from the violations. The person, within thirty days after
3 service upon the person of the report or order, may obtain a
4 review thereof in the appropriate circuit court."

5 SECTION 6. Section 514B-68, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§514B-68[+] Power to enjoin. Whenever the commission
8 believes from satisfactory evidence that any person has violated
9 this part, part V, section 514B-103, 514B-132, 514B-134,
10 514B-149, sections 514B-152 to 514B-154, section 514B-_____, or
11 the rules of the commission adopted pursuant thereto, it may
12 conduct an investigation of the matter and bring an action
13 against the person in any court of competent jurisdiction on
14 behalf of the State to enjoin the person from continuing the
15 violation or doing any acts in furtherance thereof."

16 SECTION 7. Section 514B-69, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§514B-69[+] Penalties. (a) Any person who violates
19 or fails to comply with this part, part V, section 514B-103,
20 514B-132, 514B-134, 514B-149, [~~ex~~] sections 514B-152 to
21 514B-154, or section 514B-_____, shall be guilty of a misdemeanor
22 and shall be punished by a fine not exceeding \$10,000, or by



1 imprisonment for a term not exceeding one year, or both. Any
2 person who violates or fails to comply with any rule, order,
3 decision, demand, or requirement of the commission under this
4 part, part V, section 514B-103, 514B-132, 514B-134, 514B-149,
5 [~~or~~] sections 514B-152 to 514B-154, or section 514B-_____, shall
6 be punished by a fine not exceeding \$10,000.

7 (b) In addition to any other actions authorized by law,
8 any person who violates or fails to comply with this part,
9 part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections
10 514B-152 to 514B-154, section 514B-_____, or the rules of the
11 commission adopted pursuant thereto, shall also be subject to a
12 civil penalty not exceeding \$10,000 for any violation. Each
13 violation shall constitute a separate offense."

14 SECTION 8. Section 514B-152, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~+~~]~~§514B-152~~[~~+~~] **Association records; generally.** The
17 association shall keep financial and other records sufficiently
18 detailed to enable the association to comply with requests for
19 information and disclosures related to resale of units. Except
20 as otherwise provided by law, all financial and other records
21 shall be made [~~reasonably~~] available pursuant to section
22 514B-_____ for examination by any unit owner and the owner's



1 authorized agents. Association records shall be stored on the
2 island on which the association's project is located; provided
3 that if original records, including but not limited to invoices,
4 are required to be sent off-island, copies of the records shall
5 be maintained on the island on which the association's project
6 is located."

7 SECTION 9. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 10. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 11. This Act shall take effect on July 1, 2014.



Report Title:

Condominiums; Unit Owners; Documents, Records, and Information;
Required Disclosures; Owner's Right to Receive Documents,
Records, and Information

Description:

Consolidates into one section under chapter 514B, Hawaii Revised Statutes, the documents, records, and information that must be made available to any unit owner and the unit owner's authorized agents and specifies that these documents, records, and information shall be provided to the unit owner or owner's authorized agent no later than thirty days after receipt of a unit owner's or owner's authorized agent's written request.
(HB2401 CD1)

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

