
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 277, Session Laws of Hawaii 2006, provides
2 for a hearing procedure by the office of administrative hearings
3 as a method of alternative dispute resolution in condominium
4 disputes, with an effective date of June 29, 2006, and a repeal
5 date of June 30, 2009. The purpose of Act 277 was to continue
6 the pilot program established by section 28, Act 164, Session
7 Laws of Hawaii 2004, which was set to be repealed on June 30,
8 2006, by section 7 of Act 93, Session Laws of Hawaii 2005.

9 The new section being added to chapter 514B, Hawaii Revised
10 Statutes was not codified because the June 30, 2009 repeal date
11 rendered the law temporary rather than permanent. Because the
12 new section was not specifically codified in part VI of chapter
13 514B, the department of commerce and consumer affairs concluded
14 that the provisions of Act 277 were not applicable to
15 condominiums existing prior to July 1, 2006.

16 The purpose of this Act is to restate and clarify that the
17 legislature's intent in enacting Act 277, Session Laws of Hawaii
18 2006, was to continue the administrative hearing process until



1 June 30, 2009, and that the new statutory section enacted by Act
2 277 be included in part VI of chapter 514B, Hawaii Revised
3 Statutes.

4 SECTION 2. Act 277, Session Laws of Hawaii 2006, is
5 amended by:

6 1. Amending section 1 to read as follows:

7 "SECTION 1. Chapter 514B, Hawaii Revised Statutes, is
8 amended by adding a new section to part VI, subpart D, to be
9 appropriately designated and to read as follows:

10 "**§514B- Hearings.** (a) If a dispute is not resolved by
11 mediation as provided in section 514B-161, in addition to any
12 other legal remedies that may be available, any party that
13 participated in the mediation may file a request for a hearing
14 with the office of administrative hearings as follows:

15 (1) The party requesting the hearing must be a board of
16 directors of a registered association pursuant to
17 section 514B-103 or a unit owner who is a member of a
18 registered association pursuant to section 514B-103;

19 (2) The request for hearing shall be filed within thirty
20 days from the final day of mediation;



1 (3) The request for hearing shall name one or more parties
2 that participated in the mediation as an adverse party
3 and identify the statutory provisions in dispute; and

4 (4) The subject matter of the hearing before the hearings
5 officer may include any matter that was the subject of
6 the mediation pursuant to section 514B-161.

7 (b) The office of administrative hearings shall accept no
8 more than thirty requests for hearing per fiscal year under this
9 section.

10 (c) The party requesting the hearing shall pay a filing
11 fee of \$25 to the department of commerce and consumer affairs,
12 and the failure to do so shall result in the request for hearing
13 being rejected for filing. All other parties shall file a
14 response, accompanied by a filing fee of \$25, to the department
15 of commerce and consumer affairs, within twenty days of being
16 served with the request for hearing.

17 (d) The hearings officer appointed by the director of
18 commerce and consumer affairs pursuant to section 26-9(f) shall
19 have jurisdiction to review any request for hearing filed under
20 subsection (a). The hearings officer shall have the power to
21 issue subpoenas, administer oaths, hear testimony, find facts,
22 make conclusions of law, and issue written decisions that shall



1 be final and conclusive, unless a party adversely affected by
2 the decision files an appeal in the circuit court under section
3 91-14.

4 (e) Rules of practice and procedure of the department of
5 commerce and consumer affairs shall govern all proceedings
6 brought under this section. The burden of proof, including the
7 burden of producing the evidence and the burden of persuasion,
8 shall be upon the party initiating the proceeding. Proof of a
9 matter shall be by a preponderance of the evidence.

10 (f) Hearings to review and make determinations upon any
11 requests for hearings filed under subsection (a) shall commence
12 within sixty days following the receipt of the request for
13 hearing. The hearings officer shall issue written findings of
14 fact, conclusions of law, and an order as expeditiously as
15 practicable after the hearing has been concluded.

16 (g) Each party to the hearing shall bear the party's own
17 costs, including attorney's fees, unless otherwise ordered by
18 the hearings officer.

19 (h) Any party to a proceeding under this section who is
20 aggrieved by a final decision of a hearings officer may apply
21 for judicial review of that decision pursuant to section 91-14;
22 provided that any party seeking judicial review pursuant to



Report Title:

Condominiums; Alternative Dispute Resolution

Description:

Restates that the administrative hearing process as a method of alternative dispute resolution in condominium cases remains in effect until 6/30/09.

