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# 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 by the office of administrative hearings as a  
3 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7 Laws of Hawaii 2004, which was set to be repealed on June 30,  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.

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



1 (1) Continue to provide the administrative hearing process  
2 to all condominiums, including those existing prior to  
3 July 1, 2006, until June 30, 2009, and

4 (2) Require that the new section enacted by Act 277 be  
5 codified in part VI, subpart D of chapter 514B, Hawaii  
6 Revised Statutes.

7 SECTION 2. Act 277, Session Laws of Hawaii 2006, is  
8 amended as follows:

9 1. By amending section 1 to read:

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

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

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



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

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

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

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

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

19 (d) The hearings officer appointed by the director of  
20 commerce and consumer affairs pursuant to section 26-9(f) shall  
21 have jurisdiction to review any request for hearing filed under  
22 subsection (a). The hearings officer shall have the power to



1 issue subpoenas, administer oaths, hear testimony, find facts,  
2 make conclusions of law, and issue written decisions that shall  
3 be final and conclusive, unless a party adversely affected by  
4 the decision files an appeal in the circuit court under section  
5 91-14.

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

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

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

21 (h) Any party to a proceeding under this section who is  
22 aggrieved by a final decision of a hearings officer may apply



1 for judicial review of that decision pursuant to section 91-14;  
2 provided that any party seeking judicial review pursuant to  
3 section 91-14 shall be responsible for the costs of preparing  
4 the record on appeal, including the cost of preparing the  
5 transcript of the hearing.

6 (i) The department of commerce and consumer affairs may  
7 adopt rules and forms, pursuant to chapter 91, to effectuate the  
8 purpose of this section and to implement its provisions.

9 (j) This section shall be repealed on June 30, 2009."

10 2. By amending section 4 to read:

11 "SECTION 4. This Act shall take effect on June 29, 2006[  
12 ~~and shall be repealed on June 30, 2009~~]."

13 SECTION 3. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun, before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on June 29, 2020.



**Report Title:**

Condominiums; Alternative Dispute Resolution

**Description:**

Makes clear that the administrative hearing process as a method of alternative dispute resolution in condominium cases applies to all condominiums, including those existing before July 1, 2006. (HB1087 HD1)

