



GOV. MSG. NO. **515**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 23, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 23, 2010, the following bill was signed into law:

HB2197 HD1 SD1

A BILL FOR AN ACT
RELATING TO CONDOMINIUMS.
ACT 053 (10)

Sincerely,



LINDA LINGLE

Approved by the Governor

on APR 23 2010

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

ACT 053

H.B. NO. 2197
H.D. 1
S.D. 1

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Presently, the law does not provide boards of
2 directors broad authority on behalf of their associations to
3 install solar energy devices, even though associations can
4 benefit from installing solar energy or wind energy devices on
5 the common elements to reduce Hawaii's dependence on fossil
6 fuels. Some companies are now proposing to lease areas of the
7 common elements from associations to install solar energy or
8 wind energy devices, thereby reducing the association's energy
9 costs and dependence on fossil fuels.

10 The purpose of this Act is to amend sections 514A-13.4 and
11 514B-140, Hawaii Revised Statutes, to specifically provide
12 boards of directors with the authority to install or allow the
13 installation of solar energy or wind energy devices on the
14 common elements under appropriate circumstances to further
15 reduce Hawaii's dependence on energy generated from fossil
16 fuels.

17 SECTION 2. Section 514A-13.4, Hawaii Revised Statutes, is
18 amended to read as follows:

2010-1398 HB2197 SD1 SMA.doc



1 "[+]§514A-13.4[+] Telecommunications equipment[-] and
2 renewable energy devices. (a) Notwithstanding any other
3 provisions to the contrary in this chapter, in the declaration
4 of any project, or in the bylaws of any association:

5 (1) The board of directors of an association shall have
6 the authority to install or cause the installation of
7 antennas, conduits, chases, cables, wires, and other
8 television signal distribution and telecommunications
9 equipment upon the common elements of the project;
10 provided that the same shall not be installed upon any
11 limited common element without the consent of the
12 owner or owners of the apartment or apartments for the
13 use of which the limited common element is reserved;
14 and

15 (2) The installation of antennas, conduits, chases,
16 cables, wires, and other television signal
17 distribution and telecommunications equipment upon the
18 common elements by the board shall not be deemed to
19 alter, impair, or diminish the common interest,
20 elements, and easements appurtenant to each apartment
21 or to be a structural alteration or addition to any
22 building different in any material respect from the



1 plans of the project filed in accordance with section
2 514A-12; provided that no such installation shall
3 directly affect any nonconsenting apartment owner.

4 (b) Notwithstanding any other provision to the contrary in
5 this chapter, in the declaration of any project or in the bylaws
6 of any association:

7 (1) The board shall be authorized to abandon or change the
8 use of any television signal distribution and
9 telecommunications equipment due to technological or
10 economic obsolescence or to provide an equivalent
11 function by different means or methods; and

12 (2) The abandonment or change of use of any television
13 signal distribution or telecommunications equipment by
14 the board due to technological or economic
15 obsolescence or to provide an equivalent function by
16 different means or methods shall not be deemed to
17 alter, impair, or diminish the common interest,
18 elements, and easements appurtenant to each apartment
19 or to be a structural alteration or addition to any
20 building different in any material respect from the
21 plans of the project filed in accordance with section
22 514A-12.



1 (c) Notwithstanding any other law to the contrary in this
2 chapter, or any provisions in the declaration of any project or
3 in the bylaws of any association:

4 (1) The board of directors of an association shall have
5 the authority to install or cause the installation of,
6 or lease or license the common elements for the
7 installation of solar energy devices and wind energy
8 devices on the common elements of the project;
9 provided that solar or wind energy devices shall not
10 be installed upon any limited common element without
11 the consent of the owner or owners of the unit or
12 units for which use of the limited common element is
13 reserved; and

14 (2) The installation of solar energy devices and wind
15 energy devices on the common elements of the project
16 by the board shall not be deemed to alter, impair, or
17 diminish the common interest, common elements, or
18 easements appurtenant to each unit or to be a
19 structural alteration or addition to any building
20 constituting a material change in the plans of the
21 project filed in accordance with section 514A-12;



1 provided that the installation does not directly
2 affect any nonconsenting unit owner.

3 ~~[(e)]~~ (d) As used in this section:

4 "Directly affect" means the installation of television
5 signal distribution and telecommunications equipment, solar
6 energy devices, or wind energy devices in a manner which would
7 specially, personally, and adversely affect an individual
8 apartment owner in a manner not common to the apartment owners
9 as a whole.

10 "Solar energy device" means any new identifiable facility,
11 equipment, apparatus, or the like which makes use of solar
12 energy for heating, cooling, or reducing the use of other types
13 of energy dependent upon fossil fuel for its generation;
14 provided that if the equipment as it is sold to consumers cannot
15 be used as a solar device without incorporation with other
16 equipment, it shall be installed in place and ready to be
17 operational to qualify as a "solar energy device"; provided
18 further that "solar energy device" shall not include skylights
19 or windows.

20 "Television signal distribution" and "telecommunications
21 equipment" shall be construed in their broadest possible senses



1 ~~[in order]~~ to encompass all present and future forms of
2 communications technology.

3 "Wind energy device" means any new identifiable facility,
4 equipment, apparatus, or the like which makes use of wind energy
5 for producing electricity or reducing the use of other types of
6 energy that are dependent upon fossil fuel for generation;
7 provided that if the facility, equipment, apparatus, or the like
8 cannot be used as a wind energy device without incorporation
9 with other equipment, it shall be installed in place and ready
10 to be operational to qualify as a "wind energy device."

11 SECTION 3. Section 514B-140, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) Notwithstanding any other ~~[provisions]~~ law to the
14 contrary in this chapter or any provisions in any declaration or
15 bylaws:

16 (1) Regarding the installment of telecommunications
17 equipment:

18 (A) The board shall have the authority to install or
19 cause the installation of antennas, conduits,
20 chases, cables, wires, and other television
21 signal distribution and telecommunications
22 equipment upon the common elements of the



1 project; provided that the same shall not be
2 installed upon any limited common element without
3 the consent of the owner or owners of the unit or
4 units for the use of which the limited common
5 element is reserved; and

6 (B) The installation of antennas, conduits, chases,
7 cables, wires, and other television signal
8 distribution and telecommunications equipment
9 upon the common elements by the board shall not
10 be deemed to alter, impair, or diminish the
11 common interest, common elements, and easements
12 appurtenant to each unit, or to be a structural
13 alteration or addition to any building
14 constituting a material change in the plans of
15 the project filed in accordance with sections
16 514B-33 and 514B-34; provided that no [such]
17 installation shall directly affect any
18 nonconsenting unit owner; [and]

19 (2) Regarding the abandonment of telecommunications
20 equipment:

21 (A) The board shall be authorized to abandon or
22 change the use of any television signal



1 distribution and telecommunications equipment due
2 to technological or economic obsolescence or to
3 provide an equivalent function by different means
4 or methods; and

5 (B) The abandonment or change of use of any
6 television signal distribution or
7 telecommunications equipment by the board due to
8 technological or economic obsolescence or to
9 provide an equivalent function by different means
10 or methods shall not be deemed to alter, impair,
11 or diminish the common interest, common elements,
12 and easements appurtenant to each unit or to be a
13 structural alteration or addition to any building
14 constituting a material change in the plans of
15 the project filed in accordance with sections
16 514B-33 and 514B-34 [-]; and

17 (3) Regarding the installation of solar energy devices and
18 wind energy devices:

19 (A) The board shall have the authority to install or
20 cause the installation of, or lease or license
21 comment elements for the installation of solar
22 energy devices and wind energy devices on the



1 common elements of the project; provided that
2 solar or wind energy devices shall not be
3 installed upon any limited common element without
4 the consent of the owner or owners of the unit or
5 units for which use of the limited common element
6 is reserved; and

7 (B) The installation of solar energy devices and wind
8 energy devices on the common elements of the
9 project by the board shall not be deemed to
10 alter, impair, or diminish the common interest,
11 common elements, or easements appurtenant to each
12 unit or to be a structural alteration or addition
13 to any building constituting a material change in
14 the plans of the project filed in accordance with
15 sections 514B-33 and 514B-34; provided that the
16 installation does not directly affect any
17 nonconsenting unit owner.

18 (e) As used in this subsection:

19 "Directly affect" means the installation of television
20 signal distribution and telecommunications equipment, solar
21 energy devices, or wind energy devices in a manner which would



1 specially, personally, and adversely affect [a] an individual
2 unit owner in a manner not common to the unit owners as a whole.

3 "Solar energy device" means the same as in subsection (c).

4 "Television signal distribution" and "telecommunications
5 equipment" shall be construed in their broadest possible senses
6 [~~in order~~] to encompass all present and future forms of
7 communications technology.

8 "Wind energy device" means any new identifiable facility,
9 equipment, apparatus, or the like which makes use of wind energy
10 for producing electricity or reducing the use of other types of
11 energy that are dependent upon fossil fuel for generation;
12 provided that if the facility, equipment, apparatus, or the like
13 cannot be used as a wind energy device without incorporation
14 with other equipment, it shall be installed in place and ready
15 to be operational to qualify as a "wind energy device."

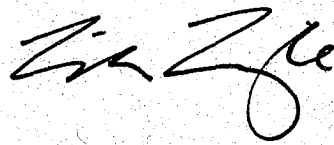
16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.
19



H.B. NO. 2197
H.D. 1
S.D. 1

APPROVED this 23 day of APR, 2010

A handwritten signature in black ink, appearing to read "Linda Zife". The signature is fluid and cursive, with the first name "Linda" and last name "Zife" clearly distinguishable.

GOVERNOR OF THE STATE OF HAWAII