

JAN 20 2017

A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

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

1 SECTION 1. The legislature finds that under existing law,
2 a condominium unit owner is entitled to certain documents,
3 records, and information regarding the owner's condominium.
4 However, clarification regarding document, record, and
5 information disclosure is needed for those condominium projects
6 in the State that are registered as time share projects and
7 contain a combination of time share units, transient vacation
8 rentals, and private residential units. Existing condominium
9 law also needs clarification to ensure condominium owners have
10 timely access to appropriate condominium association documents.

11 The purpose of this Act is to:

12 (1) Clarify that projects registered under the time share
13 law that contain a combination of time share units,
14 transient vacation rentals, and private residential
15 units located in the same project are required to
16 comply with the document, record, and information



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1 disclosure requirements under the State's condominium
2 statutes;

3 (2) Require hard copies of condominium association
4 documents, records, and information to be provided to
5 requesting owners within twenty-four hours and
6 available for download through an internet site; and

7 (3) Specifying that failure to make required association
8 documents, records, and information available shall be
9 considered an unfair or deceptive act or practice.

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

13 "§514E- Association documents to be provided.
14 Notwithstanding any other provision in the declarations,
15 association bylaws, or association rules and regulations, if
16 any, time share projects registered under this chapter that
17 contain a combination of time share units, transient vacation
18 rentals, and private residential units located in the same
19 project shall comply with the document, record, and information
20 disclosure requirements specified in section 514B-154.5."



1 SECTION 3. Section 514B-154.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§514B-154.5[+] **Association documents to be provided.**

4 (a) Notwithstanding any other provision in the declaration,
5 bylaws, or house rules, if any, the following documents,
6 records, and information, whether maintained, kept, or required
7 to be provided pursuant to this section or section 514B-152,
8 514B-153, or 514B-154, shall be made available to any unit owner
9 and the owner's authorized agents by the managing agent,
10 resident manager, board through a board member, or the
11 association's representative:

- 12 (1) All financial and other records sufficiently detailed
13 in order to comply with requests for information and
14 disclosures related to the resale of units;
- 15 (2) An accurate copy of the declaration, bylaws, house
16 rules, if any, master lease, if any, a sample original
17 conveyance document, and all public reports and any
18 amendments thereto;
- 19 (3) Detailed, accurate records in chronological order of
20 the receipts and expenditures affecting the common
21 elements, specifying and itemizing the maintenance and



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1 repair expenses of the common elements and any other
2 expenses incurred and monthly statements indicating
3 the total current delinquent dollar amount of any
4 unpaid assessments for common expenses;

5 (4) All records and the vouchers authorizing the payments
6 and statements kept and maintained at the address of
7 the project, or elsewhere within the State as
8 determined by the board, subject to section 514B-152;

9 (5) All signed and executed agreements for managing the
10 operation of the property, expressing the agreement of
11 all parties, including but not limited to financial
12 and accounting obligations, services provided, and any
13 compensation arrangements, including any subsequent
14 amendments;

15 (6) An accurate and current list of members of the
16 condominium association and the members' current
17 addresses and the names and addresses of the vendees
18 under an agreement of sale, if any. A copy of the
19 list shall be available, at cost, to any unit owner or
20 owner's authorized agent who furnishes to the managing



1 agent, resident manager, or the board a duly executed
2 and acknowledged affidavit stating that the list:

3 (A) Shall be used by the unit owner or owner's
4 authorized agent personally and only for the
5 purpose of soliciting votes or proxies or for
6 providing information to other unit owners with
7 respect to association matters; and

8 (B) Shall not be used by the unit owner or owner's
9 authorized agent or furnished to anyone else for
10 any other purpose;

11 (7) The association's most current financial statement, at
12 no cost or on twenty-four-hour loan, at a convenient
13 location designated by the board;

14 (8) Meeting minutes of the association, pursuant to
15 section 514B-122;

16 (9) Meeting minutes of the board, pursuant to section
17 514B-126, which shall be:

18 (A) Available for examination by unit owners or
19 owners' authorized agents at no cost or on
20 twenty-four-hour loan at a convenient location at
21 the project, to be determined by the board; or



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1 (B) Transmitted to any unit owner or owner's
2 authorized agent making a request for the minutes
3 within fifteen days of receipt of the request by
4 the owner or owner's authorized agent; provided
5 that:

6 (i) The minutes shall be transmitted by mail,
7 electronic mail transmission, or facsimile,
8 by the means indicated by the owner or
9 owner's authorized agent, if the owner or
10 owner's authorized agent indicated a
11 preference at the time of the request; and

12 (ii) The owner or owner's authorized agent shall
13 pay a reasonable fee for administrative
14 costs associated with handling the request,
15 subject to section 514B-105(d);

16 (10) Financial statements, general ledgers, the accounts
17 receivable ledger, accounts payable ledgers, check
18 ledgers, insurance policies, contracts, and invoices
19 of the association for the duration those records are
20 kept by the association, and any documents regarding
21 delinquencies of ninety days or more shall be



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1 available for examination by unit owners or owners'
2 authorized agents at convenient hours at a place
3 designated by the board; provided that:

4 (A) The board may require unit owners or owners'
5 authorized agents to furnish to the association a
6 duly executed and acknowledged affidavit stating
7 that the information is requested in good faith
8 for the protection of the interests of the
9 association, its members, or both; and

10 (B) Unit owners or owners' authorized agents shall
11 pay for administrative costs in excess of eight
12 hours per year;

13 (11) Proxies, tally sheets, ballots, unit owners' check-in
14 lists, and the certificate of election subject to
15 section 514B-154(c);

16 (12) Copies of an association's documents, records, and
17 information, whether maintained, kept, or required to
18 be provided pursuant to this section or section
19 514B-152, 514B-153, or 514B-154;



1 (13) A copy of the management contract from the entity that
2 manages the operation of the property before the
3 organization of an association; and

4 (14) Other documents requested by a unit owner or owner's
5 authorized agent in writing; provided that the board
6 shall give written authorization or written refusal
7 with an explanation of the refusal within [~~thirty~~
8 ~~calendar days~~] twenty-four hours of receipt of a
9 request for documents pursuant to this paragraph.

10 (b) Subject to section 514B-105(d), copies of the items in
11 subsection (a) shall be provided to any unit owner or owner's
12 authorized agent upon the owner's or owner's authorized agent's
13 request; provided that the owner or owner's authorized agent
14 pays a reasonable fee for duplication, postage, stationery, and
15 other administrative costs associated with handling the request.

16 (c) Notwithstanding any provision in the declaration,
17 bylaws, or house rules providing for another period of time, all
18 documents, records, and information listed under subsection (a),
19 whether maintained, kept, or required to be provided pursuant to
20 this section or section 514B-152, 514B-153, or 514B-154, shall
21 be provided in hard copy format no later than [~~thirty days~~]



1 twenty-four hours after receipt of a unit owner's or owner's
2 authorized agent's written request [~~unless a lesser time is~~
3 ~~provided pursuant to this section or section 514B-152, 514B-153,~~
4 ~~or 514B-154, and except as provided in subsection (a)(14)] .~~

5 (d) Any documents, records, and information, whether
6 maintained, kept, or required to be provided pursuant to this
7 section or section 514B-152, 514B-153, or 514B-154, may be made
8 available electronically to the unit owner or owner's authorized
9 agent if the owner or owner's authorized agent requests such in
10 writing.

11 (e) An association [~~may~~] shall comply with this section or
12 section 514B-152, 514B-153, or 514B-154 by making the required
13 documents, records, and information available to unit owners or
14 owners' authorized agents for download through an internet site,
15 [~~at the option of each unit owner or owner's authorized agent~~
16 ~~and~~] at no cost to the unit owner or owner's authorized agent.

17 (f) Any fee charged to a unit owner or owner's authorized
18 agent to obtain copies of the association's documents, records,
19 and information, whether maintained, kept, or required to be
20 provided pursuant to this section or section 514B-152, 514B-153,
21 or 514B-154, shall be reasonable; provided that a reasonable fee



1 shall include administrative and duplicating costs and shall not
2 exceed \$1 per page, or portion thereof, except that the fee for
3 pages exceeding eight and one-half inches by fourteen inches may
4 exceed \$1 per page.

5 (g) This section shall apply to [~~condominiums~~]:

6 (1) Condominiums organized under chapter 514A or 514B[-];

7 and

8 (2) Projects registered under chapter 514E, if the

9 projects contain a combination of time share units,

10 transient vacation rentals, and private residential

11 units located in the same project.

12 (h) Any violation of this section shall be an unfair or

13 deceptive act or practice as provided in section 480-2.

14 [~~(h)~~] (i) Nothing in this section shall be construed to

15 create any new requirements for the release of documents,

16 records, or information."

17 SECTION 4. Statutory material to be repealed is bracketed

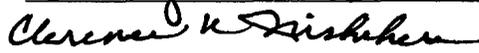
18 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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Report Title:

Real Property; Condominiums; Time Share Projects; Association Documents, Records, and Information; Required Disclosure

Description:

Clarifies that projects that contain a combination of time share units, transient vacation rentals, and private residential units located in the same project are required to comply with the document, record, and information disclosure requirements under the State's condominium statutes. Requires hard copies of condominium association documents, records, and information to be provided to requesting owners within twenty-four hours and available for download through an internet site. Specifies that failure to make association documents, records, and information available is an unfair or deceptive act or practice.

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

