

JAN 27 2021

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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. The legislature finds that tobacco smoke is a  
2 major contributor to many health problems. Secondhand smoke  
3 causes heart disease, stroke, respiratory diseases, and lung  
4 cancer in otherwise healthy nonsmokers, and can be attributed to  
5 thousands of premature deaths and illnesses annually.

6           The legislature also finds that breathing secondhand smoke  
7 for just twenty minutes has substantial, adverse effects on the  
8 heart, blood, and blood vessels, and activates flood platelets  
9 involved in the clotting process, which increases the chances of  
10 getting a heart attack or stroke. Even five minutes of exposure  
11 stiffens the aorta, forcing the heart to work harder to pump  
12 blood.

13           The legislature notes that Act 295, Session Laws of Hawaii  
14 2006, prohibited smoking in places open to the public and places  
15 of employment, thus ensuring a consistent level of basic  
16 protections statewide from exposure to secondhand smoke.



1           The legislature also notes, however, that apartments,  
2 condominiums, and other types of residences in which people live  
3 in close proximity to each other often do not provide adequate  
4 relief from secondhand smoke, which travels into neighboring  
5 units under doors and through open windows, tiny cracks and  
6 openings in walls, electrical outlets, spaces around pipes and  
7 plumbing fixtures, and ventilation systems. According to the  
8 American Society of Heating, Refrigeration and Air-Conditioning  
9 Engineers, there is "no known ventilation or air cleaning system  
10 that can eliminate all the toxins from another resident's  
11 smoke." Secondhand smoke from a neighboring unit creates an  
12 unlivable situation, exacerbating health problems for  
13 individuals who are already fragile due to existing medical  
14 conditions.

15           The legislature recognizes that condominium association  
16 owners may vote to prohibit smoking. However, some medically  
17 fragile unit owners have encountered problems in getting their  
18 condominium boards of directors to allow them to make their  
19 cases for reasonable accommodation to mitigate the effects of  
20 smoking from neighboring units, especially when a large  
21 percentage of unit owners are absent. The coronavirus 2019



1 pandemic has exacerbated this situation by making it difficult  
2 to convene condominium board meetings. Further, because  
3 residents are confined to their units, individuals who smoke in  
4 their unit create increasing amounts of secondhand smoke to the  
5 detriment of their neighbors' health and safety. The State  
6 seeks to provide avenues of protection for these most vulnerable  
7 citizens.

8 The purpose of this Act is to protect condominium unit  
9 owners who are susceptible to the effect of secondhand smoke by:

- 10 (1) Requiring a condominium board of directors to convene  
11 to consider and vote upon a request from a unit owner  
12 for a reasonable accommodation to mitigate the effects  
13 of secondhand smoke from neighboring units;
- 14 (2) Providing for subsequent annual meetings on subsequent  
15 requests if previous requests are denied; and
- 16 (3) Authorizing the unit owner to pursue alternative  
17 dispute resolution if a request is denied a second  
18 time.

19 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is  
20 amended by adding a new section to part VI, subpart B to be  
21 appropriately designated and to read as follows:



1           "§514B-        Board meetings; reasonable accommodations;  
2 mitigation of effects of smoking. (a) A qualifying unit owner  
3 who resides in the unit and is susceptible to the effects of  
4 secondhand smoke may request that the board convene to grant the  
5 qualifying unit owner a reasonable accommodation to mitigate the  
6 effects of secondhand smoke emanating from neighboring units  
7 that surround or are adjacent to the qualifying unit owner's  
8 unit. Reasonable accommodation may include:

9           (1) A temporary prohibition on smoking in the neighboring  
10           units;

11           (2) Directions to smokers in the neighboring units to  
12           smoke in designated smoking areas or in areas away  
13           from the condominium property regime;

14           (3) Other reasonable accommodations; or

15           (4) Any combination of the foregoing.

16           (b) Upon receipt of a request from a qualifying unit owner  
17 submitted pursuant to subsection (a), the board shall schedule a  
18 meeting to consider and vote upon the request. The meeting  
19 shall convene no later than            days after the receipt of the  
20 request. Notice of the meeting shall be issued to:

21           (1) The qualifying unit owner;



1       (2) The owners of the neighboring units that may be  
2           adversely impacted by the request,  
3 pursuant to the procedures for notice of association meetings  
4 established in section 514B-121(d).

5       (c) At a meeting convened pursuant to subsection (b), the  
6 qualifying unit owner and the neighboring unit owners who were  
7 notified of the meeting may state their respective reasons for  
8 approving or denying the qualifying unit owner's request for  
9 reasonable accommodation. If the board votes to deny the  
10 qualifying unit owner's request, the requestor may make  
11 subsequent requests for a reasonable accommodation; provided  
12 that the board shall convene a meeting on a subsequent request  
13 no later than one year after the board's most recent meeting on  
14 the qualifying unit owner's most recent prior request.

15       (d) If the board votes to deny a qualifying unit owner's  
16 request for a reasonable accommodation after meeting on the unit  
17 owner's second request, the qualifying unit owner may pursue a  
18 resolution pursuant to subpart D of this part."

19       SECTION 3. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



# S.B. NO. 980

1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect on July 1, 2021.

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INTRODUCED BY: 



# S.B. NO. 980

**Report Title:**

Condominiums; Smoking; Health; Board Meetings; Votes

**Description:**

Requires the board of directors of a condominium association to convene to consider and vote upon a request from a qualifying unit owner for reasonable accommodation to mitigate the effects of secondhand smoke from neighboring units. Provides for subsequent annual meetings on subsequent requests if previous requests are denied. Requires notices of meeting to the requesting unit owner and the owners of certain neighboring units. Authorizes a unit owner to pursue alternative dispute resolution if a request is denied for a second time.

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

