

ACT 9

A Bill for an Act Relating to Horizontal Property Regimes and Amending Act 180, Session Laws of Hawaii 1961.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. Section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest. Said section 11 further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house. Pursuant to said section 11 of Article III of the Constitution of the State of Hawaii, this act is hereby declared to be an urgency measure deemed necessary in the public interest. The following is a statement of facts constituting such urgency:

The purposes of this amendment are (1) to encourage a horizontal property regime involving construction of units, not only of two or more apartments, rooms, office spaces, or other units in existing or proposed building(s) or structure(s) which are multi-unit structures vertically constructed with common elements as presently provided, but also of such apartments, rooms, office spaces, or other such units in single structures horizontally constructed with common elements, (2) to encourage construction of condominium units pursuant to the newly adopted resort-hotel zoning ordinance of the City and County of Honolulu and to enable projects which are presently stymied by the narrow interpretation of the existing horizontal property act to be initiated and completed under said act, as amended, in the State of Hawaii, (3) to make it clear that the substantive law relating to the land court has not been changed by Act 180, and (4) to clear up certain ambiguous sections in the act.

SECTION 2. Section 2(c), Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"(c) 'Condominium' means the ownership of single units, with common elements, located on property within the horizontal property regime."

SECTION 3. Section 2(d), Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"(d) 'Condominium project' means a real estate condominium project; a plan or project whereby a condominium of two or more apartments located within the horizontal property regime are offered or proposed to be offered for sale."

SECTION 4. Section 2(e), Act 180, Session Laws of Hawaii 1961, is hereby amended by deleting the word "association" after the word "partnership" in the first line of said section.

SECTION 5. Section 2(j), Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"(j) 'Majority of co-owners' means fifty-one per cent of the co-owners as determined by the respective interests held by such co-owners."

SECTION 6. Section 2(k), Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"(k) 'Master deed' or 'master lease' means the deed or lease recording the property of the horizontal property regime. 'Declaration' means a declaratory statement by the fee owner, lessee or developer placing the property under the horizontal property regime."

SECTION 7. Section 3, Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"Section 3. **Horizontal property regimes.** Whenever a developer, a sole owner or the co-owners of a building expressly declare, through the recording of a master deed or lease together with a declaration, which deed, lease or declaration shall set forth the particulars enumerated by section 7, their desire to submit their property to the regime established by this chapter, there shall thereby be established a horizontal property regime. In the event that the master deed or lease is already recorded, the recording of the declaration shall be deemed sufficient to achieve the same result."

SECTION 8. Section 7, Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

"Section 7. **Recordation.** The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of

a master deed or lease and the individual apartments may be made. Provisions shall be made for the recordation of the individual apartments on subsequent re-sales, mortgages and other encumbrances, as is done with all other real estate recordations; provided, however, that land court certificates of title shall not be issued for apartments. The master deed or lease to which section 3 refers shall express the following particulars:

“(a) The description of the land, whether leased or in fee simple, and the buildings, expressing their respective areas;

“(b) The general description and number of each apartment, expressing its area, location and any other data necessary for its identification; and

“(c) The description of the general common elements of the building.”

SECTION 9. Section 32, Act 180, Session Laws of Hawaii 1961, is hereby amended to read as follows:

“Section 32. **Chapter not exclusive.** The provisions of this chapter shall be in addition and supplemental to all other provisions of the Revised Laws of Hawaii 1955, as amended; provided, however, that this act shall not change the substantive law relating to land court property, and provided, further, that if this act shall conflict with chapters 342 and 343, Revised Laws of Hawaii 1955, chapters 342 and 343 shall prevail.”

SECTION 10. This Act shall take effect upon its approval.

(Approved May 14, 1962.) H.B. 591.
