

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514A-11, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 514A-11 Recordation and contents of declaration. 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 declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514A-20 refers shall express the following particulars:

- (1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located.
- (2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed.
- (3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, designated parking stall, if considered a limited common element, and any other data necessary for its proper identification.
- (4) Description of the common elements.
- (5) Description of the limited common elements, if any, stating to which apartments their use is reserved.
- (6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting.
- (7) Statement of the purposes for which the building or buildings and each of the apartments are intended and restricted as to use.
- (8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county or city and county in which the property is located.
- (9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the property in the event of damage or destruction of all or part of the property.
- (10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (11) The method by which the declaration may be amended, consistent with this chapter.

- (12) Description as to any additions, deletions, modifications, and reservations as to the property.
- (13) In the case of a project which includes one or more existing structures being converted to condominium status, a statement that the project is in compliance with all ordinances, codes, rules, regulations, or other requirements in force at the time of its construction.
- (14) In the case a project which includes one or more existing structures being converted to condominium status, statement of whether any variance has been granted from any ordinance, code, rule, regulation, or other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement."

SECTION 2. Section 514A-40, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 514A-40 Issuance of final reports prior to completion of construction. No final public report shall be issued prior to completion of construction of the project, unless there is filed with the real estate commission:

- (1) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys' fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the building;
- (2) A verified estimate of the time of completion of construction of the total project;
- (3) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers' funds, equity funds, interim or permanent loan commitments, or other sources;
- (4) A copy of the executed construction contract;
- (5) Satisfactory evidence of a performance bond of not less than one hundred per cent of the cost of construction;
- (6) If purchasers' funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 514A-67 for financing construction, which shall expressly provide for:
 - (A) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for such disbursements which have been approved or certified for payment by the mortgagee or a financially disinterested person; and
 - (B) No disbursements from the balance of the trust fund after payment of construction costs pursuant to the preceding paragraph until the escrow agent received satisfactory evidence that all mechanics' and materialmen's liens have been cleared, unless sufficient funds are set aside for any bona fide dispute;
- (7) A parking plan to include designated residence parking stalls and guest parking, if any, exclusive of assignment to individual apartments, if parking stalls are to be considered limited common elements;
- (8) In the case of a project which includes one or more existing structures being converted to condominium status, a verified statement signed by an appro-

prate county official that the project is in compliance with all ordinances, codes, rules, regulations, and other requirements in force at the time of its construction;

- (9) In the case of a project which includes one or more existing structures being converted to condominium status, a verified statement signed by an appropriate county official of whether any variance has been granted from any ordinance, code, rule, regulation, or any other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement;
- (10) In the case of a project which includes one or more existing structures being converted to condominium status:
 - (A) A statement by the declarant, based upon a report prepared by an independent registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;
 - (B) A statement by the declarant of the expected useful life of each item reported on in subparagraph (A) or a statement that no representations are made in that regard;
 - (C) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations; and
 - (D) Subparagraphs (A), (B), and (C) apply only to apartments that may be occupied for residential use, and only to apartments that have been in existence for five years.”

SECTION 3. Section 514A-61, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 514A-61 Disclosure requirements. (a) Each developer of a project subject to this chapter shall prepare and provide to each prospective initial purchaser an abstract which shall contain the following:

- (1) The name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent;
 - (2) A breakdown on the annual maintenance fees and the monthly estimated cost for each apartment, revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles;
 - (3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties; and if no warranties exist, the developer shall state that no warranties exist;
 - (4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed project containing apartments for both residential and hotel use;
 - (5) A statement of the extent of commercial or other non-residential development in the project.
- (b) In the case of a project which includes one or more existing structures being

converted to condominium status:

- (1) A statement by the declarant, based upon a report prepared by an independent registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;
 - (2) A statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; and
 - (3) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations;
 - (4) Paragraphs (1), (2), and (3) apply only to apartments that may be occupied for residential use, and only to apartments that have been in existence for five years.
- (c) This section shall be administered by the real estate commission.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved May 19, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.