

ACT 164

S.B. NO. 224

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-102, Hawaii Revised Statutes, is amended to read as follows:

“§514A-102 Announcement, publication. Beginning fifteen calendar days prior to the date any developer notifies the commission of the developer’s intention to sell a project which is subject to this chapter, the developer shall cause to be published in the classified section of at least one newspaper published daily in the State and having a general circulation in the county in which the project is to be located, not less than [twice] once in each of two successive weeks, an announcement containing a summary of at least the following information:

- (1) The location of the project;
- (2) A fair and reasonable estimate of:
 - (A) The total number of apartments to be included in the project;
 - (B) The number of apartments designated as residential units;
 - [(C) The number of floors in the project;
 - (D) The number of bedrooms and square feet of each residential unit;
 - (E) The price and amount of monthly maintenance fees for each residential unit; and
 - (F) The amount of lease rent for each residential unit and the applicable time periods.]
 - (C) The price range of the units;
 - (D) The approximate size of the units; and
 - (E) A designation whether the units are fee simple or leasehold.
- (3) The statement that the apartments shall be offered for sale upon the issuance of the first public report by the commission, and the approximate date of the issuance;

- (4) A statement of the intended use, such as, but not limited to, commercial, timesharing, or vacation rental, of any apartment in the project other than a residential unit designated for use by an owner-occupant;
- (5) The statement that fifty per cent of the residential units shall initially be offered for a ten-day period to only prospective owner-occupants, and a designation of such residential units;
- (6) The name and address of a real estate broker, which shall be designated by the developer, who any interested individual may contact to be placed on a reservation list, and to obtain further information on the project; and
- (7) A statement that a public report has not been issued for the project, and that the commission has not yet determined whether the developer has adequately disclosed all material facts as required by law.

Proof of publication of the announcement[,] summarizing the information required by paragraphs (1) to (7) of this section, and a copy thereof, shall be filed with the commission as a condition of issuance of any public report. The developer or the developer's broker shall also provide a copy of the announcement and the following information: the number of floors in the project; the number of bedrooms and square feet of each residential unit; the price and amount of monthly maintenance fees for each residential unit; the amount of lease rent for each residential unit and the applicable time periods; to each prospective purchaser[,] and to any individual by certified mail, delivered to the addressee only, return receipt requested, occupying such unit immediately prior to any conversion."

SECTION 2. Section 514A-105, Hawaii Revised Statutes, is amended to read as follows:

"§514A-105 Sale of residential units. From the issuance of the first public report until ten calendar days thereafter, the developer shall offer all the residential units designated pursuant to section 514A-103 for sale to only the individuals whose names are on the reservation list in the order in which their names appear on such list; provided that in the case of a project which includes one or more existing structures being converted to condominium status, each residential unit contained in the project shall first be offered for sale to any individual occupying such unit immediately prior to the conversion and who otherwise complies with section 514A-104.

Each contract for the purchase of a designated residential unit by an owner-occupant shall be conditioned upon the buyer obtaining adequate financing, or a commitment for adequate financing¹ within [thirty] ~~forty-five~~ calendar days following the end of the ten calendar day period during which the developer is limited to selling to owner-occupants, and if such financing or commitment is not obtained, the contract shall be canceled. If during the ten calendar day period following the issuance of the first public report, any individual with whom a contract for the sale of one of the designated residential units was entered desires to cancel the contract on account of hardship circumstances such as those set forth in section 514A-104(1), or indicates an intent not to become an owner-occupant of such unit, the developer shall cancel the sales contract and shall offer the unit to persons whose names are on the reservation list, beginning with the first name listed; provided that if there are no additional names on the list, at the end of the ten calendar day period the

developer may honor the original sales contract, or cancel the contract and sell to any other person without any further restriction imposed by this part.

Upon the cancellation of any contract, the developer shall return all moneys paid pursuant to the contract but may deduct from the moneys returned any reasonable amount representing expenses incurred by the developer to process the sales contract; provided that the cancellation shall be approved by any lender financing the project; and provided further that the deposit of each individual on the reservation list who has not been offered a residential unit shall be refunded in full. Any individual on the reservation list may at any time be offered any residential unit in the project not subject to the designation required by section 514A-103."

SECTION 3. Section 514A-106, Hawaii Revised Statutes, is amended to read as follows:

"§514A-106 Financial institutions, obligations. Any person subject to chapter 403, 407, 408, 410, or 454, or who is subject to any other law for the purpose of lending money upon the security of real property shall:

- (1) Within [thirty] ~~forty-five~~ days after receipt of an application for credit from any individual for the purpose of purchasing a residential unit designated for owner-occupants under this part, notify the applicant of the action on the application; and
- (2) Prior to making any commitment to extend credit to any individual for the purpose of purchasing a residential unit designated for owner-occupants under this part, take all reasonable steps necessary to determine that the individual, in fact, intends to become an owner-occupant of such residential unit."

SECTION 4. Section 514A-108, Hawaii Revised Statutes, is amended to read as follows:

"§514A-108 Inapplicability of part. (a) This part shall not apply to any project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 206, 206E, 356, 359, or 359G.

(b) This part shall not apply to small condominium projects where the developer sells or intends to sell the project to a spouse or family members related by blood, descent or adoption.

(c) This part shall not apply to condominium projects where the developer builds or converts two houses on a single lot."

SECTION 5. Act 189, Session Laws of Hawaii 1980, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon its approval, [terminate on December 31, 1985,] and shall apply to projects for which a notice of intent has not been filed with the real estate commission prior to the effective date."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 31, 1985.)

Note

1. A "," is missing.