

ACT 44

S.B. NO. 388

A Bill for an Act Relating to Condominium Public Reports.

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:

“§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, provided that an amendment to the declaration shall require a vote or written consent of not less than seventy-five per cent of all apartment owners, except as otherwise provided in this chapter.
 - (12) Description as to any additions, deletions, modifications, and reservations as to the property, including without limitation provisions concerning the merger or addition of later phases of the project. To the extent provided in the declaration, an amendment to the declaration which is made to implement such additions, deletions, modifications, reservations or merger provisions shall require the vote or written consent of only the declarant or such percentage of apartment owners as is provided in the declaration.
 - (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 zoning and building ordinances[,] and codes[, rules, regulations, or other requirements in force at the time of its construction.] applicable to the project, and specifying, if applicable:
 - (A) Any variances which have been granted to achieve such compliance; and
 - (B) Whether, as the result of the adoption or amendment of any ordinances or codes, the project presently contains any legal non-conforming uses or structures.
 - [(14) In the case of 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-31, Hawaii Revised Statutes, is amended to read as follows:

“§514A-31 Notification of intention. Prior to the time when apartments in a condominium project [is] are to be offered for sale in this State, the developer shall [notify the real estate commission] register the project with the commission by notifying the commission in writing of the developer’s intention to sell such [offerings.] apartments. No offer of sale or sale shall be made [without the issuance of a] until the project has been registered with the commission and the commission has issued an effective date for the project’s preliminary or final public report.”

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SECTION 3. Section 514A-32, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-32 Questionnaire and filing fee.** The notice of intention shall be accompanied by [a]:

- (1) A nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91; [and by a]
- (2) A verified copy of a questionnaire properly filled in[.]; and
- (3) Such documents and information concerning the project as may be specified by the commission.

The questionnaire shall be in such form and content as [will require full disclosure of all material facts reasonably available.] prescribed by the commission.”

SECTION 4. Section 514A-33, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-33 Inspection.** After appropriate notification has been made or additional information has been received pursuant to [section 514A-31 and 514A-32,] sections 514A-31, 514A-32, 514A-40, or 514A-41, an inspection of the condominium project may be made by the [real estate] commission.”

SECTION 5. Section 514A-34, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-34 Inspection expenses.** When an inspection is to be made of projects, the [notice of intention shall be accompanied by the filing fee, together with] developer shall be required to pay an amount estimated by the [real estate] commission to be necessary to cover the actual expenses of the inspection, not to exceed [\$20] \$500 a day for each day consumed in the examination of the project plus reasonable first-class transportation expenses.”

SECTION 6. Section 514A-35, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-35 Waiver of inspection.** The [real estate] commission may waive [initial] an inspection when in its opinion, a preliminary, [or] final, or supplementary public report can be substantially drafted and issued from the contents of the questionnaire and other or subsequent inquiries. [Failure of the commission to notify the developer of its intent to inspect the developer’s project within ten days after notification of intention is properly filed pursuant to sections 514A-31 and 514A-32 will be construed a waiver of the inspection.]”

SECTION 7. Section 514A-36, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-36 Public reports and [issuance] registration fees.** (a) [When the real estate commission makes an examination of any project, it shall make a public report of its findings, which shall contain all material facts reasonably available. A public report shall neither be construed to be an approval nor disapproval of a project. No] Concurrently with its filing with the commission of the notification of intention pursuant to sections 514A-31 and 514A-32, the developer shall prepare and submit to the commission a public report disclosing all material facts pertaining to the project. The public report shall be in such form and

content as prescribed by the commission. Such public report may not be used for the purpose of selling any apartments in the project unless and until the commission issues an effective date for the public report. The commission's issuance of an effective date for a public report shall not be construed to constitute the commission's approval or disapproval of the project, or the commission's representation that all material facts concerning the project have been fully or adequately disclosed, or the commission's judgment of the value or merits of the project. No effective date for a final public report [for a condominium project] shall be issued until execution and recordation of the deed or master lease, the declaration, [with a true copy of] the bylaws, [annexed thereto,] and floor plans as approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings, as provided by sections 514A-12, 514A-20, and 514A-81.

(b) The [real estate] commission may determine when a public report will supersede the public reports previously issued for the project.

(c) The developer shall be assessed a nonrefundable fee as provided in the rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, for [the issuance of a subsequent public report and for the issuance of a supplementary public report.] each effective date requested for a public report, including extensions, if any."

SECTION 8. Section 514A-37, Hawaii Revised Statutes, is amended to read as follows:

"§514A-37 Preliminary public [report.] reports. [A preliminary public report may be issued by the real estate commission upon] The commission may issue an effective date for a preliminary public report upon the commission's receipt of a notice of intention the filing of which is complete except for some particular requirement, or requirements, which is, or are, at the time not fulfilled, but which may reasonably be expected to be completed. [No preliminary report shall be issued unless the commission is satisfied] Preliminary public reports shall not be used for any sale under a contract for the sale of an apartment in a condominium project, unless the developer of the project has filed with the commission those documents and that information required to be submitted with the notification of intention referred to in sections 514A-31 and 514A-32, including a specimen copy of the proposed contract of sale and an executed copy of an escrow agreement with a third party depository for retention and disposition of purchasers' funds in accordance with section 514A-65. The developer shall prepare the preliminary public report so as to ensure that the report adequately discloses all material facts which a prospective purchaser should consider [and] in purchasing an apartment in the project, and shall ensure that adequate protection for [purchaser's] purchasers' funds has been provided."

SECTION 9. Section 514A-38, Hawaii Revised Statutes, is amended to read as follows:

"§514A-38 Request for [public report] effective date or hearing by developer. [If, within thirty days after notice of intention is properly filed pursuant to sections 514A-31 and 514A-32, a public report has not been issued by the real estate commission, the developer may, in writing, request of the commission that the report be prepared by a private consultant, and when requested by the commission, the] The director of commerce and consumer affairs may contract with private consultants for the [preparation of public reports prescribed in] review of documents and information submitted to the commission pursuant to

this chapter. The cost of [preparation of public reports] such review by private consultants shall be borne by the developer. If [the commission does not request the director to let the contract, or if the director determines not to let the contract, or when a final or preliminary] an effective date for a public report is not [otherwise] issued within a reasonable time after [notice of intention is properly filed pursuant to sections 514A-31 and 514A-32, or when a substitute public report is not issued within a reasonable time after requested or required, or] compliance with registration requirements, or if the developer is materially grieved by the form or content of [a] the public report, the developer may, in writing, request and shall be given a hearing by the [real estate] commission within a reasonable time after receipt of request.”

SECTION 10. Section 514A-40, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-40 [Issuance of final] Final reports.** (a) [No final public report shall be issued] No effective date shall be issued by the commission for a final public report 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;] project;
- (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 issued by a surety licensed in the State of not less than one hundred per cent of the cost of construction[;], or such other substantially equivalent or similar instrument or security approved by the commission;
- (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 expressly shall provide for:
 - (A) No disbursements by the escrow agent for payment of construction costs, unless bills are submitted with the request for disbursements that have been approved or certified for payment by the[mortgagee or a] project lender or an otherwise qualified 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 construction of the project has been completed and the escrow agent receives satisfactory evidence that all mechanics’ and materialmen’s liens have been cleared, unless sufficient funds are set aside for any bona fide dispute; and
- (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.

(b) No [final public report] effective date shall be issued by the commission for a final public report for a project that includes one or more existing structures being converted to condominium status unless there is filed with the [real estate] commission all items required under subsection (a) and:

- [(1) A verified statement signed by an appropriate 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;
- (2) 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;]
- (1) A verified statement signed by an appropriate county official that the project is in compliance with all zoning and building ordinances and codes applicable to the project, and specifying, if applicable:
 - (A) Any variances which have been granted to achieve such compliance; and
 - (B) Whether the project contains any legal non-conforming uses or structures as a result of the adoption or amendment of any ordinances or codes.
- [(3)] (2) A statement by the declarant, based upon a report prepared by an independent Hawaii 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;] project; and
- [(4)] (3) A statement by the declarant of the expected useful life of each item reported on in paragraph [(3)] (2) or a statement that no representations are made in that regard; provided that this paragraph and paragraph (2) apply only to apartments that may be occupied for residential use and have been in existence for five years or more.
- [(5) A list of any outstanding notices of uncured violations of building code or other county regulations, together with the cost of curing these violations; and
- (6) A statement whether the project is on a lot or has structures or uses that do not conform to present zoning requirements; provided that paragraphs (3), (4), and (5) apply only to apartments that may be occupied for residential use and have been in existence for five years.]

(c) No [final public report or supplementary public report, which supersedes a final public report shall be issued for a project] effective date shall be issued by the commission for a final public report until the developer has paid into the condominium management education fund a nonrefundable fee of \$5 for each apartment in the project. Fees required by this subsection shall be subject to adjustment as prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Payments required under this subsection shall be due after June 13, 1989.”

SECTION 11. Section 514A-41, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-41 Supplementary public report.** (a) If after [any public report has been issued,] the effective date has been issued by the commission for a public report, any circumstance occurs which would render the public report misleading

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as to purchasers in any material respect, the developer shall stop all sales and immediately submit [sufficient information to the real estate commission to enable it to issue] to the commission a supplementary public report, together with such supporting information as may be required by the commission, to update the information contained in the public report[.], accompanied by a nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Sales shall not resume until [the supplementary public report has been issued. Unless the supplementary public report has been superseded, all prospective purchasers shall receive a true copy of any supplementary public report issued after a final public report.] an effective date has been issued by the commission for the supplementary public report. The developer shall provide all prospective purchasers with a true copy of the supplementary public report and all prior public reports not superseded by the supplementary public report.

(b) The [real estate] commission may determine when a supplementary public report will supersede the public reports previously issued for the project.

(c) Notwithstanding the provisions of this section, the rescission rights, if any, of a purchaser shall be governed exclusively by sections 514A-62 and 514A-63. This does not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies.”

SECTION 12. Section 514A-42, Hawaii Revised Statutes, is amended to read as follows:

“§514A-42 True copies of public report[.]; no misleading information. [The true copies of the real estate commission’s public report shall be an exact reproduction of those prepared by the commission.] The public reports given by the developer to prospective purchasers shall be an exact reproduction of the public report for which the commission has issued an effective date. All documents (including the public report) prepared by or for the developer and submitted to the commission in connection with the developer’s registration of the project, and all information contained in such documents, shall be true, complete and accurate in all respects, and shall not contain any misleading information, or omit any information which would render the information or documents submitted to the commission misleading in any material respect.”

SECTION 13. Section 514A-43, Hawaii Revised Statutes, is amended to read as follows:

“§514A-43 Automatic expiration of public reports. A public report shall expire thirteen months after the effective date of [issuance, unless a supplementary report has been issued or the real estate commission,] the report, unless the commission, upon review of the registration, and payment of a nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, issues an order extending the effective period of the report.”

SECTION 14. Section 514A-44, Hawaii Revised Statutes, is amended to read as follows:

“§514A-44 Deposit of fees. All fees collected under this chapter shall, unless otherwise provided in this chapter, be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.”

SECTION 15. Section 514A-45, Hawaii Revised Statutes, is amended to read as follows:

“§514A-45 Supplemental regulations governing a condominium property regime. Whenever they deem it proper, the [real estate] commission, the county councils of the various counties or the city council of the city and county of Honolulu may adopt supplemental rules and regulations governing a condominium property regime established under this chapter in order to implement this program; provided that any of the supplemental rules and regulations adopted shall not conflict with this chapter or with any of the rules and regulations adopted by the [real estate] commission to implement this chapter.”

SECTION 16. Section 514A-46, Hawaii Revised Statutes, is amended to read as follows:

“§514A-46 Investigatory powers. If the commission has reason to believe that [a developer, an association of apartment owners, or a managing agent is violating] any person is violating or has violated any provision set forth in [section] sections 514A-2, 514A-31 to [514A-39, 514A-41, 514A-42, 514A-44 to] 514A-49, [514A-62,] 514A-61 to 514A-63, 514A-65, [514A-68, 514A-69,] 514A-67 to 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, [or] 514A-98, or the rules of the commission adopted pursuant thereto, the commission may [investigate the developer’s project, the association of apartment owners, or the managing agent] conduct an investigation of the matter and examine the books, accounts, contracts, records, and files of the association, the managing agent, real estate broker, or [those used in the project of] the developer. For the purposes of examination, the developer and the real estate broker shall keep and maintain records of all sales transactions and of the funds received by the developer and the real estate broker pursuant thereto, and to make such records accessible to the commission upon reasonable notice and demand.”

SECTION 17. Section 514A-47, Hawaii Revised Statutes, is amended to read as follows:

“§514A-47 Cease and desist orders. In addition to its authority under section 514A-48, whenever the commission has reason to believe that any person is violating or has violated [section] sections 514A-2, 514A-31 to [514A-39, 514A-41, 514A-42, 514A-44 to] 514A-49, [514A-62 to] 514A-61 to 514A-63, 514A-65, [514A-68, 514A-69,] 514A-67 to 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, [or] 514A-134, or the rules of the commission adopted pursuant thereto, it shall issue and serve upon the person a complaint stating its charges in that respect containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of the complaint. The person so complained of has the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law or the rules of the commission adopted pursuant thereto, charged in the complaint. If upon the hearing the commission is of the opinion that this chapter, or the rules of the commission adopted pursuant thereto, has been or is being violated, it shall make a report in writing in which it shall state its findings as to the facts and shall

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issue and cause to be served on the person an order requiring the person to cease and desist from the violations. The person complained of, within thirty days after service upon the person of the report or order, may obtain a review thereof in the appropriate circuit court.”

SECTION 18. Section 514A-48, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-48 Power to enjoin.** Whenever the commission believes from satisfactory evidence that any person has violated any of [section] sections 514A-2, 514A-31 to [514A-39, 514A-41, 514A-42, 514A-44 to] 514A-49, [514A-62,] 514A-61 to 514A-63, 514A-65, [514A-68, 514A-69,] 514A-67 to 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, [or] 514A-134, or the rules of the commission adopted pursuant thereto, it may conduct an investigation on the matter and bring an action in the name of the people of the State in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.”

SECTION 19. Section 514A-49, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-49 Penalties.** (a) Any person who in any respect violates or fails to comply with any of the provisions set forth in [section] sections 514A-2, 514A-31 to [514A-39, 514A-41, 514A-42, 514A-44 to] 514A-49, [514A-62,] 514A-61 to 514A-63, 514A-65, [514A-68, 514A-69,] 514A-67 to 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-102 to 514A-106, or 514A-134, is guilty of a misdemeanor and shall be punished by a fine not exceeding [\$2,000] \$10,000 or by imprisonment for a term not exceeding one year, or both. Any person who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the commission under [section] sections 514A-2, 514A-31 to [514A-39, 514A-41, 514A-42, 514A-44 to] 514A-49, [514A-62,] 514A-61 to 514A-63, 514A-65, [514A-68, 514A-69,] 514A-67 to 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-102 to 514A-106, or 514A-134 shall be punished by a fine not exceeding [\$2,000.] \$10,000.

(b) Any person who violates any provision of this chapter or the rules of the commission adopted pursuant thereto also shall be subject to a civil penalty not exceeding [\$2,500] \$10,000 for any violation. Each violation shall constitute a separate offense and the collection of the fine shall be by suit brought by the attorney general on behalf of the commission.”

SECTION 20. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(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 Hawaii 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;
 - (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) A statement whether the project is on a lot, or has structures[,] or uses, which do not conform to present zoning requirements;
- provided that 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.”

SECTION 21. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) This section shall be administered by the [real estate] commission. The [real estate] commission may waive the requirements of subsections (a), [and] (b), and (c) if the information required to be contained in the disclosure abstract is included in the [real estate] commission’s public report on the project.”

SECTION 22. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“**§514A-62 Copy of public report to be given to prospective purchaser.**¹ (a) The developer (or any other person offering any apartment in a condominium project prior to completion of its construction) shall not enter into a contract or agreement for the sale or resale of an apartment which is binding upon any prospective purchaser until:

- (1) [A true copy of the real estate commission’s final public report thereon has been delivered] The commission has issued an effective date for a final public report on the project, and the developer has delivered, or caused to be delivered, to the prospective purchaser, either personally or by registered or certified mail with return receipt requested, a true copy of the final public report together with a true copy of all [other public reports thereon, if any, issued prior to the date of such delivery and not] prior public reports on the project, if any, which have not been previously delivered to such prospective purchaser[.]; [Public reports issued prior to the final public report] except that such prior public reports need not be delivered to the prospective purchaser if[:] the final public report supersedes such prior public reports. If, prior to the entering into of such contract or agreement for sale or resale, the commission has, subsequent to its issuance of an effective date for the final public report, issued an effective date for a supplementary public report on the project, then a true copy of such supplementary public report shall also be delivered to such prospective purchaser in the same manner as the final public report, except that if the supplementary public report supersedes all prior public reports on the project, then only the supplementary public report need be delivered to the prospective purchaser.

[(A) The final public report supersedes all prior public reports; or

- (B) A supplementary public report has been issued which supersedes the final public report and any other prior public reports,

in which case a true copy of the real estate commission's supplementary public report shall be delivered instead of the final public report.]

- (2) The prospective purchaser has been given an opportunity to read the report or reports; and
- (3) The prospective purchaser (A) executes the form of the receipt and notice set forth in subsection (d); and (B) waives the prospective purchaser's right to cancel; provided that if the prospective purchaser does not execute and return the receipt and notice within thirty days from the date of delivery of such reports, or if the apartment is conveyed to the prospective purchaser prior to the expiration of such thirty-day period, the prospective purchaser shall be deemed to have accepted for the reports and to have waived the prospective purchaser's right to cancel."

SECTION 23. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) Whenever a final public report or supplementary public report is delivered to a prospective purchaser pursuant to subsection (a), two copies of the receipt and notice set out below shall also be delivered to such purchaser, one of which may be used by the purchaser to cancel the transaction. Such receipt and notice shall be printed in capital and lower case letters of not less than twelve-point type on one side of a separate statement. The receipt and notice shall be in the following form:

"RECEIPT FOR PUBLIC REPORT(S) AND NOTICE OF RIGHT TO CANCEL

I acknowledge receipt of the [Hawaii Real Estate Commission's] Developer's (Preliminary, Final, and Supplementary) Public Report(s) and Disclosure Abstract, contained in the public report, in connection with my purchase of apartment(s) (insert apartment numbers) in the (insert name of condominium project) condominium project.

I understand that I have a legal right under Hawaii law to cancel my purchase, if I desire to do so, without any penalty or obligation within thirty days from the date the above Public Report or Reports were delivered to me. If I cancel, I understand that I will be entitled to receive the refund of any downpayment or deposit, less any escrow cancellation fees and other costs, up to \$250.

If I decide to cancel, I understand that I can do so by notifying (insert name of seller) at (insert address of seller) by mail or telegram sent before: (1) the conveyance of my apartment(s) to me; or (2) midnight of the thirtieth day after delivery of the Public Report(s) to me, whichever is earlier. If I send or deliver my written notice some other way, it must be delivered to the above address no later than that time. I understand that I can use any written statement that is signed and dated by me and states my intention to cancel, or I may use this notice by checking the appropriate box and by signing and dating below.

I understand that if I do not act within the above thirty-day period or if the apartment is conveyed to me within the above thirty-day period, I will be considered to have executed this receipt and to have waived my right to cancel my purchase. I also understand that I can waive my right to cancel by checking the appropriate box, by signing and dating below, and by returning this notice to (insert name of seller).

I HAVE RECEIVED A COPY OF:

- (1) THE [HAWAII REAL ESTATE COMMISSION'S] DEVELOPER'S (PRELIMINARY, FINAL, AND SUPPLEMENTARY) PUBLIC REPORT(S) ON (insert name of condominium project); AND
- (2) THE DISCLOSURE ABSTRACT CONTAINED IN THE PUBLIC REPORT.

 Purchaser's signature

 Date

I HAVE HAD AN OPPORTUNITY TO READ THE PUBLIC REPORT(S) AND

[] I WAIVE MY RIGHT TO CANCEL.

[] I HEREBY EXERCISE MY RIGHT TO CANCEL.

 Purchaser's signature

 Date"

(e) No obligation to purchase an apartment under any agreement for the purchase or reservation of an apartment entered into prior to the [issuance] purchaser's receipt of a final public report is enforceable against the purchaser under such agreement."

SECTION 24. Section 514A-65, Hawaii Revised Statutes, is amended to read as follows:

"§514A-65 Escrow requirement. All moneys paid by purchasers prior to [issuance of final reports] the purchaser's receipt of the final public report on the project shall be deposited in trust under escrow arrangement with instructions that no disbursements shall be made from such trust funds on behalf of the seller until the contract has become [effective,] binding, and the requirements of sections [514A-39] 514A-40 and 514A-63 have been met."

SECTION 25. Section 514A-39, Hawaii Revised Statutes, is repealed.

SECTION 26. Statutory material to be repealed is bracketed.² New statutory material is underscored.

SECTION 27. This Act shall take effect on July 1, 1991.

(Approved April 26, 1991.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.