

## ACT 155

H.B. NO. 25

A Bill for an Act Relating to Condominium Property Regimes.

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

SECTION 1. Section 514A-21, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-21 Removal from provisions of this chapter. (a) If:**

- (1) Apartment owners owning not less than eighty per cent in number of apartments in the aggregate, and owning apartments to which are appurtenant not less than eighty per cent of the common interests, execute and record an instrument to the effect that they desire to remove the property from this chapter, and the holders of all liens affecting any of the apartments of the apartment owners executing such instrument consent thereto by instruments duly recorded, or
- (2) The common elements suffer substantial damage or destruction and such damage or destruction has not been rebuilt, repaired, or restored within a reasonable time after the occurrence thereof or the apartment owners have earlier determined as provided in the declaration that such damage or destruction shall not be rebuilt, repaired, or restored, then, and in either event, the property shall be subject to an action for partition by any apartment owner or lienor as if owned in common, in which event the sale of the property shall be ordered by the court and the net proceeds of sale, together

with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in proportion to their respective common interests, provided that no payment shall be made to an apartment owner until there has first been paid off out of the owner's share of such net proceeds all liens on the owner's apartment. Upon such sale, the property ceases to be the subject of a condominium property regime or subject to this chapter.

(b) All of the apartment owners may remove a property, or a part of a property, from this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto, by instruments duly recorded. Upon such removal from this chapter, the property, or the part of the property designated in the instrument, ceases to be the subject of a condominium property regime or subject to this chapter, and is deemed to be owned in common by the apartment owners in proportion to their respective common interests.

(c) Notwithstanding subsections (a) and (b); if the apartment leases for a leasehold project (including condominium conveyance documents, ground leases, or similar instruments creating a leasehold interest in the land) provide that:

- (1) The estate and interest of the apartment owner shall cease and determine upon the acquisition, by an authority with power of eminent domain of title and right to possession of any part of the project;
- (2) The apartment owner shall not by reason of the acquisition or right to possession be entitled to any claim against the lessor or others for compensation or indemnity for the apartment owner's leasehold interest;
- (3) All compensation and damages for or on account of any land shall be payable to and become the sole property of the lessor;
- (4) All compensation and damages for or on account of any buildings or improvements on the demised land shall be payable to and become the sole property of the apartment owners of the buildings and improvements in accordance with their interests; and
- (5) The apartment lease rents are reduced in proportion to the land so acquired or possessed;

then, the lessor and the declarant shall file an amendment to the declaration to reflect any acquisition or right to possession. The consent or joinder of the apartment owners or their respective mortgagees shall not be required, if the land so acquired or possessed constitutes no more than five per cent of the total land of the project. Upon the filing of the amendment, the land acquired or possessed shall cease to be the subject of a condominium property regime or this chapter. The lessor shall notify each apartment owner in writing of the filing of the amendment and the rent abatement to which the apartment owner is entitled. The lessor shall provide the association of apartment owners, through its board of directors, with a copy of the amendment.

For purposes of this subsection, the acquisition or right to possession may be effected:

- (1) By a taking or condemnation of property by the State or a county pursuant to chapter 101;
- (2) By the conveyance of property to the State or county under threat of condemnation; or
- (3) By the dedication of property to the State or county if the dedication is required by state law or county ordinance."

SECTION 2. Section 514A-83.4, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-83.4 Meeting minutes.** (a) Minutes of meetings of the board of directors and association of apartment owners shall include the recorded vote of each board member on all motions except motions voted on in executive session.

(b) Minutes of meetings of the board of directors and association of apartment owners shall be approved at the next succeeding meeting; provided that for board of directors meetings, no later than the second succeeding meeting.

(c) Minutes of all meetings shall be available within seven calendar days after approval and unapproved final drafts of the minutes of a meeting shall be available within sixty days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1993.)