

ACT 242

S.B. NO. 1654

A Bill for an Act Relating to Condominium Management Dispute Resolution.

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

SECTION 1. Hawaii's recodified condominium law is contained in chapter 514B, Hawaii Revised Statutes (HRS). The applicability of that chapter to "existing condominiums" is set forth in section 514B-22, HRS, which provides that part VI of the chapter, entitled "Management of Existing Condominiums", applies to all condominiums created before July 1, 2006, but:

- (1) *Shall apply only with respect to events and circumstances occurring on or after July 1, 2006; and*
- (2) *Shall not invalidate existing provisions of the declaration, bylaws, condominium map, or other constituent documents of those condominiums if to do so would invalidate the reserved rights of a developer or be an unreasonable impairment of contract.*

Chapter 514B, HRS, allows for the mediation of condominium disputes under section 514B-161, HRS, which is codified in part VI of the chapter. Therefore, the legislature finds that this section applies to condominiums created before July 1, 2006, unless the section would unreasonably impair a contract or invalidate rights that a developer reserved in the condominium documents.

An administrative hearing dispute resolution procedure for condominiums was established by Act 277, Session Laws of Hawaii 2006. The procedure will sunset on June 30, 2009, and was never codified in chapter 514B, HRS. Although the procedure would probably have been codified in part VI of chapter 514B, HRS, nothing in Act 277 specifically requires this. Therefore, it is not clear whether this hearing procedure applies to condominiums existing before July 1, 2006, pursuant to section 514B-22, HRS.

The purpose of this Act is to ensure that the mediation and administrative hearing dispute resolution procedures under section 514B-161, HRS, and Act 277, Session Laws of Hawaii 2006, apply and are available to:

- (1) Condominiums that were created before July 1, 2006; and
- (2) Cases that were pending before the department of commerce and consumer affairs office of administrative hearings under the pilot dispute resolution project established by Act 164, Session Laws of Hawaii 2004, when that project was repealed on June 30, 2006.

SECTION 2. Act 277, Session Laws of Hawaii 2006, is amended as follows:
1. By amending the prefatory language of section 1 to read:

“SECTION 1. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:”

SECTION 3. Cases that were pending before the office of administrative hearings of the department of commerce and consumer affairs as part of the condominium dispute resolution pilot project established by section 28 of Act 164, Session Laws of Hawaii 2004, on June 30, 2006, that may have been dismissed due to the repeal of section 28 of Act 164, Session Laws of Hawaii 2004, shall be reinstated, and regardless of whether they are based on events and circumstances occurring before July 1, 2006, may be resolved under Act 277, Session Laws of Hawaii 2006.

SECTION 4. New statutory material is underscored.

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

(Approved July 2, 2007.)