

## Chapter 514A Repeal - Frequently Asked Questions

(December 2017)

We at the Real Estate Commission (“Commission”) understand that the repeal of Hawaii Revised Statutes (HRS) Chapter 514A, can be a confusing topic. Thus, we’ve created a frequently asked question list to help condominium developers and owners understand how they may be impacted by the repeal.

### **What are HRS Chapter 514A and Chapter 514B?**

They are the two Hawaii state laws that govern condominium projects in their registration and governance. Chapter 514A is being repealed. Chapter 514A governs the registration of condominium projects created prior to July 1, 2006, and Chapter 514B governs the registration of condominium projects created after July 1, 2006, and governance for all condominium projects. You may check to see which law your unit was created by searching the Commission’s database here: [http://hawaii.gov/dcca\\_condo/index.html](http://hawaii.gov/dcca_condo/index.html)

### **I’m an owner in a condominium which voted to adopt HRS Chapter 514B. Does this concern me?**

**DEPENDS:** Your association’s vote to adopt Chapter 514B impacts the governance of your condominium, *not* the legal creation and development and thus the repeal may concern you. Please see the following questions to determine if this impacts you.

### **I’m a condominium owner who bought my Commission-registered Chapter 514A unit from another owner or a developer in a regular sale. Does this repeal affect me?**

**NO:** The repeal of Chapter 514A does not impact your unit or your ability to sell your unit. Furthermore, since 2007, condominium governance has been under Chapter 514B for all condominium projects. You should not be affected by the repeal.

### **I’m a condominium owner who inherited or was gifted my Chapter 514A unit from a developer (such as a parent or grandparent) who previously registered the project. Does this impact me?**

**DEPENDS:** Check with the person from whom you received the property as a gift or inheritance to see whether your condominium developer’s public report is active (and will be active on January 1, 2019) and is accurate. Owners who received their unit in such a manner are *not* generally considered to have engaged in a first or regular sale. If the report is active, the project will automatically transfer to HRS Chapter 514B and you should not be affected. If it has expired, will expire before January 1, 2019, or material changes have occurred, seek advice from the attorney who prepared your project’s report or contact the Commission as soon as possible. Please check the Commission’s database at [http://hawaii.gov/dcca\\_condo/index.html](http://hawaii.gov/dcca_condo/index.html) to determine the status of your project’s developers public report.

### **I’m a developer of a registered Chapter 514A project with units remaining to be sold. Does this affect me?**

**YES:** You have two options, keep your Chapter 514A developer’s public report active and accurate on January 1, 2019, to make certain that your project meets the requirements for an automatic transfer to Chapter 514B or apply for a transition to a Chapter 514B report pursuant to Act 244, SLH 2007. Furthermore, please read in detail the attached Commission’s developer’s memorandum, contact the attorney who prepared your report, and the Commission.

### **I’m a developer of a registered Chapter 514A project with a preliminary or contingent report. Does this impact me?**

**YES:** Preliminary and contingent reports will *not* be automatically transferred to Chapter 514B. You may either apply for a developer’s final public report or transition to a Chapter 514B report pursuant to Act 244, SLH 2007. Please contact your attorney or the Commission for more information.

**It appears that the repeal of HRS Chapter 514A impacts me as a developer. What's the timeline for extensions or supplementary reports?**

The Commission is anticipating a sizable increase in applications along with its regular workload. Thus, the Commission strongly recommends submitting supplemental developer's public reports if there are any changes as soon as possible and no later than August 2018 to ensure that your project will have an active effective date on January 1, 2019. For developers with no changes requesting extensions which extends the effective date for 13 months, please make sure that the extension date will last through January 1, 2019.

**I'm a Developer. Do I receive any documentation from the Commission confirming that my registered Chapter 514A project was transferred to Chapter 514B? If I don't meet the requirements and my project is not automatically transferred to Chapter 514B on January 1, 2019, what are my options at that point?**

The Commission is not planning to send any documentation regarding automatic transfer and refers all developers and buyers to the Commission's online database for the most recent active status of a project on January 1, 2019. If the database notes an active status through January 1, 2019 and no material changes are known, the project will be considered to have been automatically transferred.

Should your project not meet the requirements to automatically transfer to Chapter 514B, all sales must stop, and the registration with the Commission must be withdrawn and resubmitted as a new Chapter 514B project.

**I'm a developer of a registered Chapter 514A project, and I've sold all the units. What do I have to do?**

**NOTHING:** All your obligations to update the report ended with the sale of the last unit. Just make sure that you do not have any other Chapter 514A projects with units remaining to be sold.

**I'm a developer of a registered Chapter 514B project. Does this concern me?**

**NO:** Act 181, SLH 2017 only repeals Chapter 514A. There are no changes to your responsibilities as a Chapter 514B developer.

**I'm an owner of a registered Chapter 514B unit. Does this concern me?**

**NO:** Act 181, SLH 2017 only repeals Chapter 514A. The repeal does not impact owners of Chapter 514B units in any way.

**I'm a developer of an unregistered Chapter 514A project intending to sell units. Does this impact me?**

**YES:** Unless you provided notice of intent to the Commission prior to 2007, you must register as a Chapter 514B project. Please contact the Commission and/or an attorney for more information.

**I'm an attorney or property manager for a condominium project. What should I do?**

Check to see if the project(s) that you're working on is a Chapter 514A project and whether all of the units have been sold. If there are remaining developer's units left, contact the developer to inform them of the deadline.

**Where can I get a copy of the repeal law?**

You may find a copy of Act 181 on the Hawaii State Legislature website, <http://www.capitol.hawaii.gov>, and search for SB 292 in the "bills status" field.

**I'm a renter in a condominium unit. Should I worry?**

**NO:** The repeal has no impact upon renters.