



# Condominium Project Registration

## Reminders Real Estate Commission Memorandum 2019-1 (01/01/19)

*The information provided here is intended to provide developers, including where applicable, their attorneys and agents, as well as interested others with supplemental information in the form of reminders about the condominium project registration process\*.*

- The repeal of chapter 514A, HRS, effective January 1, 2019, had a safe harbor clause whereby a project developed under chapter 514A, HRS, whose final or supplemental developer's public report is active and accurate and not misleading on January 1, 2019, will automatically be treated as a non-expiring chapter 514B, HRS, project pursuant to part IV of chapter 514B, HRS.

First sales of units in these projects may continue using their respective report that was active, accurate, and not misleading on January 1, 2019. Should a developer make changes to their project, they will be required to file an update on the chapter 514B, HRS, developer's public report form.

These safe harbor projects are now subject to the \$50 annual report requirement under §514B-58, HRS. The anniversary of their annual report is the effective date issued to their most recent developer's public report, pursuant to the Hawaii Real Estate Commission's ("Commission") December 12, 2018, informal non-binding interpretation.

- Projects with units that have not undergone a first sale which did not meet the safe harbor requirements are prohibited from legally selling those unsold units prior to re-registration under chapter 514B, HRS. This impacts developers and owners who received their units as an inheritance or a gift from a developer.

These developers who wish to re-register must follow the registration requirements of chapter 514B, HRS. However, they will not be required to provide certain details on any previously sold units in their project beyond the requirements of part V of chapter 514B, HRS, pursuant to the Commission's December 12, 2018, informal non-binding interpretation. No disclosure of warranties, useful life, or proof of ownership on units previously sold in a bonafide sale will be required. Such developers should be aware of the map requirements for all buildings and units pursuant to §§514B-33 and 34, HRS.

Developers should also be aware that the declaration, bylaws, and other documents will need to be amended to fully adopt chapter 514B, HRS, and laws that may have not applied to them in the past, such as chapter 205, HRS, are now applicable.

Pursuant to the Commission's December 12, 2018, informal non-binding interpretation, pre-existing bonafide purchasers will not be considered developers. Buyers who previously purchased their units in bonafide sales are not impacted and may continue to legally sell their units pursuant to chapter 508D, HRS. This repeal does not impact their legal rights, but they likely will need to vote on amending the governing documents to conform to chapter 514B, HRS.

Please review the [chapter 514B forms](#) on the Commission's [website](#) and [chapter 514B, HRS](#).

***\* The provided information is unofficial, informal, and non-binding on the Real Estate Commission and is being provided pursuant to §16-201-92, Hawaii Administrative Rules. Please contact the Real Estate Commission at (808) 586-2643 between 7:45 AM and 4:30 PM, Monday through Friday and your attorney for more information.***