



GOV. MSG. NO. 1118

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

April 12, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

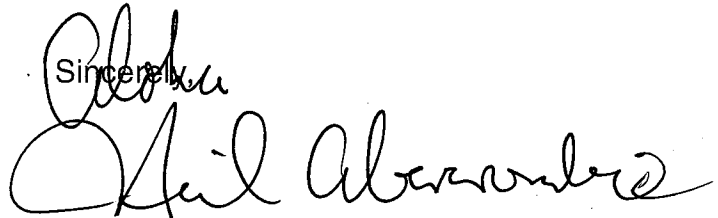
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 12, 2012, the following bill was signed into law:

HB1746 HD1

RELATING TO CONDOMINIUMS.  
**Act 018 (12)**

Sincerely,  
  
NEIL ABERCROMBIE  
Governor, State of Hawaii

RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT

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Approved by the Governor

ORIGINAL

on APR 12 2012

ACT 018

HOUSE OF REPRESENTATIVES  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

H.B. NO. 1746  
H.D. 1

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## A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that many older  
2 condominium projects in Hawaii operate with only a single meter  
3 measuring the aggregate consumption of utilities such as gas,  
4 water, and electricity for all units within the condominium  
5 project. Consequently, utility expenses are paid for as a  
6 common expense based on each unit's undivided interest in the  
7 condominium, rather than individual units' actual utility usage.

8           The legislature finds that this method of apportioning  
9 utility costs is unfair to both unit owners and the condominium  
10 association. A unit owner faces no consequences for wasteful  
11 energy consumption, such as leaving lights or air conditioning  
12 on at all times. Unit owners with vacant units, such as part-  
13 time residents or owners of unoccupied rental units, are also at  
14 a disadvantage. For example, a three-bedroom unit with a higher  
15 undivided interest than a studio apartment will pay a higher  
16 utility cost, regardless of whether the unit is occupied or  
17 vacant. The legislature further finds that wasteful or

HB1746 HD1 HMS 2012-1649



1 excessive utility use results in higher costs for the  
2 association when utility costs are paid for as a common expense.

3 The legislature also finds that the patent unfairness of  
4 common utility metering in condominium associations was  
5 addressed by Act 176, Session Laws of Hawaii 1977, and Act 93,  
6 Session Laws of Hawaii 2005, which added new sections to  
7 chapters 514A and 514B, Hawaii Revised Statutes, respectively,  
8 to require separate metering of nonresidential and residential  
9 units and to allow individual metering of condominium units.  
10 However, the requirement for separate monitoring of  
11 nonresidential units only applies to projects for which  
12 construction commenced after 1978. Condominiums constructed  
13 before 1978 are not required to adhere to those laws. The  
14 legislature finds that recent technology permits the individual  
15 metering of utilities in many instances for a reasonable cost  
16 regardless of the age or construction design of the condominium  
17 project.

18 The purpose of this Act is to permit a condominium board of  
19 directors to authorize the installation of utility meters to  
20 measure utility use by individual units; provided that the  
21 condominium association bears the cost of installing the utility  
22 meters.



1 SECTION 2. Section 514A-15.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§514A-15.5 Metering of utilities. (a) Notwithstanding  
4 the provisions of section 514A-15, commercial apartments in  
5 mixed-use projects containing apartments for both residential  
6 and commercial use[~~, the construction of which commences after~~  
7 ~~December 31, 1977,~~] shall have a separate meter, or calculations  
8 shall be made, or both, to determine the use by the commercial  
9 apartments of utilities, including electricity, water, gas,  
10 fuel, oil, sewerage, and drainage and the cost of [such] the  
11 utilities shall be paid by the owners of [such] the commercial  
12 units; provided that the apportionment of [such] the charges  
13 among owners of commercial apartments shall be done in a fair  
14 and equitable manner as set forth in the declaration or bylaws.

15 Notwithstanding any provision to the contrary in this  
16 chapter or in a project's declaration or bylaws of an  
17 association of apartment owners, the board of directors may  
18 authorize the installation of separate meters to determine the  
19 use by each of the residential and commercial apartments of  
20 utilities, including electricity, water, gas, fuel, oil,  
21 sewerage, and drainage; provided that the cost of installing the  
22 meters shall be paid by the association.



1 (b) ~~[Subject to]~~ Notwithstanding any approval requirements  
2 and spending limits contained in the declaration or bylaws of an  
3 association of apartment owners, the board of directors of any  
4 association of apartment owners may authorize the installation  
5 of meters to determine the use by ~~[the]~~ each residential ~~[and]~~  
6 or commercial ~~[apartments]~~ apartment of utilities, including  
7 electricity, water, gas, fuel, oil, sewerage, and drainage~~[.];~~  
8 provided that the cost of installing the meters shall be paid by  
9 the association. The cost of metered utilities shall be paid by  
10 the owners of ~~[such apartments]~~ each apartment based on actual  
11 consumption and may be collected in the same manner as common  
12 expense assessments. Owners' maintenance fees shall be adjusted  
13 as necessary to avoid any duplication of charges to these owners  
14 for the cost of metered utilities."

15 SECTION 3. Section 514B-42, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "~~[+]~~**§514B-42**~~[+]~~ **Metering of utilities.** (a) Units in a  
18 project that includes units designated for both residential and  
19 nonresidential use shall have separate meters, or calculations  
20 shall be made, or both, as may be practicable, to determine the  
21 use by the nonresidential units of utilities, including  
22 electricity, water, gas, fuel, oil, sewerage, air conditioning,



1 chiller water, and drainage, and the cost of [~~such~~] the  
2 utilities shall be paid by the owners of the nonresidential  
3 units; provided that the apportionment of the charges among  
4 owners of nonresidential units shall be done in a fair and  
5 equitable manner as set forth in the declaration or bylaws.  
6 ~~[The requirements of this subsection shall not apply to projects~~  
7 ~~for which construction commenced before January 1, 1978.]~~

8 Notwithstanding any provision to the contrary in this  
9 chapter or in a project's declaration or bylaws the board may  
10 authorize the installation of separate meters to determine the  
11 use by each of the residential and commercial units of  
12 utilities, including electricity, water, gas, fuel, oil,  
13 sewerage, and drainage; provided that the cost of installing the  
14 meters shall be paid by the association.

15 (b) ~~[Subject to]~~ Notwithstanding any approval requirements  
16 and spending limits contained in a project's declaration or  
17 bylaws, [a] the board of any association may authorize the  
18 installation of meters to determine the use by [the] each  
19 individual [~~units~~] unit of utilities, including electricity,  
20 water, gas, fuel, oil, sewerage, air conditioning, chiller  
21 water, and drainage[-]; provided that the cost of installing the  
22 meters shall be paid by the association. The cost of metered

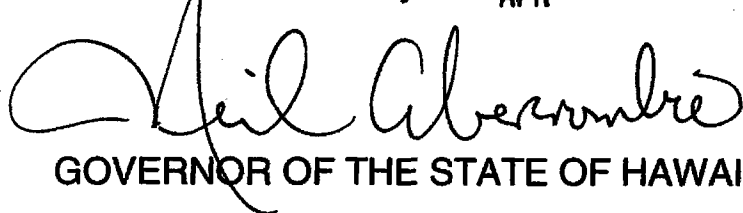


1 utilities shall be paid by the owners of [~~the units~~] each unit  
2 based on actual consumption and, to the extent not billed  
3 directly to the unit owner by the utility provider, may be  
4 collected in the same manner as common expense assessments.  
5 Owners' maintenance fees shall be adjusted as necessary to avoid  
6 any duplication of charges to owners for the cost of metered  
7 utilities."

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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

APPROVED this 12 day of APR, 2012

  
GOVERNOR OF THE STATE OF HAWAII

