

# Frequently Asked Questions

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Hawai'i Association of REALTORS®  
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## Electricity Cost Disclosure

The information provided herein is provided by the Hawai'i Association of REALTORS®. You are advised to seek and retain your own legal counsel for any legal advice or interpretation of the law.

### What is the new law relating to electricity cost disclosure?

H.B. 1464 states: "Prior to the sale of residential real property, the property owner shall make a good faith declaration of electricity cost based on the most recent three-month period in which the property was occupied prior to the date of the seller's disclosure, pursuant to chapter 508D. This declaration shall only apply where the owner directly pays the electrical utility bills, and shall not apply in the case of a foreclosure of residential real property or where there are no electrical utility accounts associated with the property."

### Why was this law passed?

During the 2009 Legislative Session, the Legislature considered several measures that required disclosure of 3-months of actual utility bills for all real property transactions. HAR strongly objected to this proposed requirement, because at the point of sale, it could create many difficulties including problems with retrieving actual bills and the potential confusion created by different types of utility bills.

HAR worked with the Legislature to help them understand the potential impact of this legislation from the real estate practitioners' point of view; however, key legislators felt strongly about passing some form of this legislation this year. In order to avoid the most detrimental impacts of the bill, HAR worked with Legislators to limit the unintended consequences of the bill.

### What does the new language mean?

It means that for the sale of residential real property, a seller will be required to disclose the last three months of electricity in which the property was occupied and the bills were paid by the owner.

### Are there any exemptions to this law?

Foreclosure and REO properties are exempt from the disclosure requirements. In addition, properties for which there are no electric bills associated with the property or where the property owner is not directly paying the electrical bills are also exempt.

### I had a rental property and now wish to sell it. Do I need to disclose electricity billing information?

If the tenants were paying for the electrical bills and you are not paying the bills directly, you do not have to make this disclosure.



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**I pay my Condominium Association maintenance fees which covers all electricity costs. Will I have to disclose these costs?**

The law requires disclosure of the total cost of the electricity costs. However, this requirement only applies where the owner directly pays the electric bills. In the situation described above, since the condominium association directly pays the electric bills, there will be no disclosure requirement.

**I sell industrial and commercial properties – am I required to disclose?**

No. This law only applies to sales of residential real property.

**What do you mean by “good faith declaration” of the electricity bill amounts?**

The “good faith declaration” means that, rather than provide the actual electric bills, a seller can just state the amounts paid in the Seller's Real Property Disclosure Statement.

**How does this impact our Standard Forms?**

The Standard Forms Committee updated the Seller's Real Property Disclosure Statement to comply with this new law. New forms are available at [www.hawaiiirealtors.com](http://www.hawaiiirealtors.com). Specifically, under Utilities in Section E-78 b) of the Seller's Real Property Disclosure Statement, it shall state:

- Hawaii law requires Sellers who pay their electricity bills directly to make a good faith declaration of electricity costs based upon the most recent three-month period that the property was occupied. In this context, please answer the following:
- Do you pay your electrical utility bill directly? [  ] Yes [  ] No
- If yes, please state the amount you paid for electricity for the most recent three-month period that the property was occupied.
- Mon/Yr: \_\_\_\_\_ Amount: \_\_\_\_\_ Mon/Yr: \_\_\_\_\_ Amount \_\_\_\_\_ Mon/Yr: \_\_\_\_\_ Amount: \_\_\_\_\_  
Buyer's actual electricity costs may vary substantially.

**When is the law effective?**

The new requirement is effective July 1, 2009. ***All Brokers and Agents should remind their Sellers to comply with the new law. All transactions closing on or after July 1, 2009 should disclose the electricity cost information either through an addendum or with the revised form.***

**My client does not remember their electricity costs. How can they find this information?**

Some suggestions might be to go back to the actual utility bills, or call the electricity company. In addition, the client may be able to access this information online through the appropriate Hawaiian Electric Industries website through the “view your bill” option (HELCO, MECO, or HECO.).

More detailed additional information is available from the Hawai'i Association of REALTORS® website.

[www.hawaiiirealtors.com](http://www.hawaiiirealtors.com)



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