

JAN 18 2008

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514A-97, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§514A-97 Association of apartment owners funds; handling**
4 **and disbursement.** (a) The funds in the general operating account
5 of the association of apartment owners shall not be commingled
6 with funds of other activities such as lease rent collections and
7 rental operations, nor shall a managing agent commingle any
8 association funds with the managing agent's own funds.

9 (b) For purposes of subsection (a), lease rent collections
10 and rental operations shall not include the rental or leasing of
11 common elements that is conducted on behalf of the association or
12 the collection of ground lease rents from individual apartment
13 owners of a project and the payment of such ground lease rents to
14 the ground lessor; provided that:

15 (1) The collection is allowed by the provisions of the
16 declaration, bylaws, master deed, master lease, or
17 individual apartment leases of the project;



- 1 (2) If a management contract exists, it requires the
2 managing agent to collect ground lease rents from the
3 individual apartment owners and pay the ground lease
4 rents to the ground lessor;
- 5 (3) The system of lease rent collection is approved by a
6 majority vote of all apartment owners at a meeting of
7 the association; and
- 8 (4) No managing agent or association shall pay ground
9 lease rent to the ground lessor in excess of actual
10 ground lease rent collected from individual apartment
11 owners.
- 12 (c) All funds collected by an association, or by a managing
13 agent for any association, shall be:
- 14 (1) Deposited in a financial institution, including a
15 federal or community credit union, located in the
16 State and whose deposits are insured by an agency of
17 the United States government;
- 18 (2) Held by a corporation authorized to do business under
19 article 8 of chapter 412;
- 20 (3) Held by the United States Treasury; or
- 21 (4) Purchased in the name of and held for the benefit of
22 the association through a securities broker that is



1 registered with the Securities and Exchange
2 Commission, has an office in the state, and the
3 accounts of which are held by member firms of the New
4 York Stock Exchange or National Association of
5 Securities Dealers and insured by the Securities
6 Insurance Protection Corporation.

7 (d) All funds collected by an association, or by a managing
8 agent for any association, shall be invested only in:

9 (1) Demand deposits, investment certificates, and
10 certificates of deposit;

11 (2) Obligations of the United States government, the State
12 of Hawaii, or their respective agencies; provided that
13 those obligations shall have stated maturity dates no
14 more than ten years after the purchase date unless
15 approved otherwise by a majority vote of the apartment
16 owners at an annual or special meeting of the
17 association or by written consent of a majority of the
18 apartment owners; [~~or~~]

19 (3) Mutual funds comprised solely of investments in the
20 obligations of the United States government, the State
21 of Hawaii, or their respective agencies; provided that
22 those obligations shall have stated maturity dates no



1 more than ten years after the purchase date unless
2 approved otherwise by a majority vote of the apartment
3 owners at an annual or special meeting of the
4 association or by written consent of a majority of the
5 apartment owners; or

6 (4) Certificates of deposit issued through the Certificate
7 of Deposit Account Registry Service in an amount at
8 least equal in their market value, but not to exceed
9 their par value, to the amount of the deposit with the
10 depository;

11 provided that before any investment longer than one year is made
12 by an association, the board must approve the action; and
13 provided further that the board must clearly disclose to owners
14 all investments longer than one year at each year's association
15 annual meeting.

16 Records of the deposits and disbursements shall be disclosed
17 to the commission upon request. All funds collected by an
18 association shall only be disbursed by employees of the
19 association under the supervision of the association's board of
20 directors. All funds collected by a managing agent from an
21 association shall be held in a client trust fund account and shall
22 be disbursed only by the managing agent or the managing agent's



1 employees under the supervision of the association's board of
2 directors. The commission may draft rules governing the handling
3 and disbursement of condominium association funds.

4 ~~[(d)]~~ (e) A managing agent or board of directors shall not
5 transfer association funds by telephone between accounts,
6 including but not limited to the general operating account and
7 reserve fund account.

8 ~~[(e)]~~ (f) A managing agent shall keep and disburse funds
9 collected on behalf of the condominium owners in strict compliance
10 with any agreement made with the condominium owners, chapter 467,
11 the rules of the commission, and all other applicable laws.

12 ~~[(f)]~~ (g) Any person who embezzles or knowingly misapplies
13 association funds received by a managing agent or association of
14 apartment owners shall be guilty of a class C felony."

15 SECTION 2. Section 514B-149, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) (1) All funds collected by an association, or by a
18 managing agent for any association, shall be:

19 (A) Deposited in a financial institution, including a
20 federal or community credit union, located in the
21 State, pursuant to a resolution adopted by the



- 1 board, and whose deposits are insured by an
2 agency of the United States government;
- 3 (B) Held by a corporation authorized to do business
4 under article 8 of chapter 412;
- 5 (C) Held by the United States Treasury; or
- 6 (D) Purchased in the name of and held for the benefit
7 of the association through a securities broker
8 that is registered with the Securities and
9 Exchange Commission, that has an office in the
10 State, and the accounts of which are held by
11 member firms of the New York Stock Exchange or
12 National Association of Securities Dealers and
13 insured by the Securities Insurance Protection
14 Corporation.
- 15 (2) All funds collected by an association, or by a
16 managing agent for any association, shall be invested
17 only in:
- 18 (A) Deposits, investment certificates, savings
19 accounts, and certificates of deposit;
- 20 (B) Obligations of the United States government, the
21 State of Hawaii, or their respective agencies;
22 provided that those obligations shall have stated



1 maturity dates no more than ten years after the
2 purchase date unless approved otherwise by a
3 majority vote of the unit owners at an annual or
4 special meeting of the association or by written
5 consent of a majority of the unit owners; [~~or~~]
6 (C) Mutual funds comprised solely of investments in
7 the obligations of the United States government,
8 the State of Hawaii, or their respective
9 agencies; provided that those obligations shall
10 have stated maturity dates no more than ten years
11 after the purchase date unless approved otherwise
12 by a majority vote of the unit owners at an
13 annual or special meeting of the association or
14 by written consent of a majority of the unit
15 owners; or
16 (D) Certificates of deposit issued through the
17 Certificate of Deposit Account Registry Service
18 in an amount at least equal in their market
19 value, but not to exceed their par value, to the
20 amount of the deposit with the depository;
21 provided that before any investment longer than one year is made
22 by an association, the board must approve the action; and



1 provided further that the board must clearly disclose to owners
2 all investments longer than one year at each year's association
3 annual meeting.

4 Records of the deposits and disbursements shall be
5 disclosed to the commission upon request. All funds collected
6 by an association shall only be disbursed by employees of the
7 association under the supervision of the association's board.
8 All funds collected by a managing agent from an association
9 shall be held in a client trust fund account and shall be
10 disbursed only by the managing agent or the managing agent's
11 employees under the supervision of the association's board."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY: Brunel Kohli B/R



Report Title:

Condominiums

Description:

Allows condominium associations to invest funds in certificates of deposit through the Certificate of Deposit Account Registry Service network.

