

JAN 21 2010

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-3, Hawaii Revised Statutes, is
2 amended by amending the definition of "majority" or "majority of
3 unit owners" to read as follows:

4 "Majority" or "majority of the unit owners" means the
5 owners of units to which are appurtenant more than fifty per
6 cent of the common interests. Any specified percentage of the
7 unit owners means the owners of units to which are appurtenant
8 such percentage of the common interest."

9 SECTION 2. Section 514B-23, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) An amendment to the declaration, bylaws, condominium
12 map or other constituent documents authorized by this section
13 may be adopted by the vote or written consent of a majority of
14 the unit owners; provided that any amendment adopted pursuant to
15 this section shall not invalidate the reserved rights of a
16 developer.. If an amendment grants to any person any rights,
17 powers, or privileges permitted by this chapter, all correlative



1 obligations, liabilities, and restrictions in this chapter also
2 apply to that person."

3 SECTION 3. Section 514B-106, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (b) to read:

6 "(b) The board may not act on behalf of the association to
7 amend the declaration or bylaws (sections 514B-32(a)(11) and
8 514B-108(b)(7)), to remove the condominium from the provisions
9 of this chapter (section 514B-47), or to elect members of the
10 board or determine the qualifications, powers and duties, or
11 terms of office of board members (subsection (e)); provided that
12 nothing in this subsection shall be construed to prohibit board
13 members from voting proxies (section 514B-123) to elect members
14 of the board; and [~~provided further that~~] unless otherwise
15 provided in the bylaws, the board may fill vacancies in its
16 membership to serve until the next annual or special association
17 meeting."

18 2. By amending subsection (f) to read:

19 "(f) At any regular or special meeting of the association,
20 any member of the board may be removed and successors shall be
21 elected for the remainder of the term to fill the vacancies thus
22 created. The removal and replacement shall be by a vote of a



1 majority of the unit owners and~~[, otherwise,]~~ cumulative voting
2 shall not be permitted. Otherwise, the removal and replacement
3 shall be in accordance with all applicable requirements and
4 procedures in the bylaws for the removal and replacement of
5 directors and, if removal and replacement is to occur at a
6 special meeting, section 514B-121(b)."

7 SECTION 4. Section 514B-107, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Directors shall not expend association funds for
10 their travel, directors' fees, and per diem, unless owners are
11 informed and a majority approve of these expenses; provided
12 that, with the approval of the board, directors may be
13 reimbursed for actual expenditures incurred on behalf of the
14 association. The board meeting minutes shall reflect in detail
15 the items and amounts of the reimbursements."

16 SECTION 5. Section 514B-143, Hawaii Revised Statutes, is
17 amended by amending subsection (g) to read as follows:

18 "(g) The board, with the vote or written consent of a
19 majority of the unit owners, may require unit owners to obtain
20 reasonable types and levels of insurance. The liability of a
21 unit owner shall include but not be limited to the deductible of
22 the owner whose unit was damaged, any damage not covered by



1 insurance required by this subsection, as well as the
2 decorating, painting, wall and floor coverings, trim,
3 appliances, equipment, and other furnishings.

4 If the unit owner does not purchase or produce evidence of
5 insurance requested by the board, the directors may, in good
6 faith, purchase the insurance coverage and charge the reasonable
7 premium cost back to the unit owner. In no event is the
8 association or board liable to any person either with regard to
9 the failure of a unit owner to purchase insurance or a decision
10 by the board not to purchase the insurance for the owner, or
11 with regard to the timing of its purchase of the insurance or
12 the amounts or types of coverages obtained."

13 SECTION 6. Section 514B-145, Hawaii Revised Statutes, is
14 amended by amending subsection (g) to read as follows:

15 "(g) Before the board may take the actions permitted under
16 subsection (a), the board shall adopt a written policy providing
17 for the actions and have the policy approved by ~~[a majority vote~~
18 ~~of the unit owners at an annual or special meeting of the~~
19 ~~association or by the written consent of a majority of the unit~~
20 ~~owners.] the vote or written consent of a majority of the unit~~
21 owners."



1 SECTION 7. Section 514B-146, Hawaii Revised Statutes, is
2 amended by amending subsection (f) to read as follows:

3 "(f) Before the board or managing agent may take the
4 actions permitted under subsection (e), the board shall adopt a
5 written policy providing for such actions and have the policy
6 approved by [~~a majority vote of the unit owners at an annual or
7 special meeting of the association or by the written consent of
8 a majority of the unit owners.] the vote or written consent of a
9 majority of the unit owners."~~

10 SECTION 8. Section 514B-149, Hawaii Revised Statutes, is
11 amended by amending subsections (b) and (c) to read as follows:

12 "(b) For purposes of subsection (a), lease rent
13 collections and rental operations shall not include the rental
14 or leasing of common elements that is conducted on behalf of the
15 association or the collection of ground lease rents from
16 individual unit owners of a project and the payment of such
17 ground lease rents to the ground lessor if:

18 (1) The collection is allowed by the provisions of the
19 declaration, bylaws, master deed, master lease, or
20 individual unit leases of the project;

21 (2) A management contract requires the managing agent to
22 collect ground lease rents from the individual unit



1 owners and pay the ground lease rents to the ground
2 lessor;

3 (3) The system of lease rent collection has been approved
4 ~~[by a majority vote of all unit owners at a meeting of~~
5 ~~the association,]~~ at a meeting of the association by a
6 vote of a majority of the unit owners; and

7 (4) The managing agent or association does not pay ground
8 lease rent to the ground lessor in excess of actual
9 ground lease rent collected from individual unit
10 owners.

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

13 (A) Deposited in a financial institution, including a
14 federal or community credit union, located in the
15 State, pursuant to a resolution adopted by the
16 board, and whose deposits are insured by an
17 agency of the United States government;

18 (B) Held by a corporation authorized to do business
19 under article 8 of chapter 412;

20 (C) Held by the United States Treasury;

21 (D) Purchased in the name of and held for the benefit
22 of the association through a securities broker

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

8 (E) Placed through a federally insured financial
9 institution located in the State for investment
10 in certificates of deposit issued through the
11 Certificate of Deposit Account Registry Service
12 in federally insured financial institutions
13 located in the United States.

14 (2) All funds collected by an association, or by a
15 managing agent for any association, shall be invested
16 only in:

17 (A) Deposits, investment certificates, savings
18 accounts, and certificates of deposit;

19 (B) Obligations of the United States government, the
20 State of Hawaii, or their respective agencies;
21 provided that those obligations shall have stated
22 maturity dates no more than ten years after the



1 purchase date unless approved otherwise by [a
2 ~~majority vote of the unit owners at an annual or~~
3 ~~special meeting of the association or by written~~
4 ~~consent of a majority of the unit owners,]~~ the
5 vote or written consent of a majority of the unit
6 owners;

7 (C) Mutual funds comprised solely of investments in
8 the obligations of the United States government,
9 the State of Hawaii, or their respective
10 agencies; provided that those obligations shall
11 have stated maturity dates no more than ten years
12 after the purchase date unless approved otherwise
13 by [~~a majority vote of the unit owners at an~~
14 ~~annual or special meeting of the association or~~
15 ~~by written consent of a majority of the unit~~
16 ~~owners,]~~ the vote or written consent of a
17 majority of the unit owners; or

18 (D) Certificates of deposit issued through the
19 Certificate of Deposit Account Registry Service
20 in an amount at least equal in their market
21 value, but not to exceed their par value, to the
22 amount of the deposit with the depository;



1 provided that before any investment longer than one year is made
2 by an association, the board must approve the action; and
3 provided further that the board must clearly disclose to owners
4 all investments longer than one year at each year's association
5 annual meeting.

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

14 SECTION 9. Section 514B-150, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The association shall require an annual audit of the
17 association financial accounts and no less than one annual
18 unannounced verification of the association's cash balance by a
19 public accountant; provided that if the association is comprised
20 of less than twenty units, the annual audit and the annual
21 unannounced cash balance verification may be waived [~~by a~~
22 ~~majority vote of all unit owners taken at an association~~



1 ~~meeting.]~~ at an association meeting by a vote of a majority of
2 the unit owners."

3 SECTION 10. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect upon its approval.

6

INTRODUCED BY:

Norman Sakuma



Report Title:
Condominiums

Description:
Clarifies various provisions of the condominium property regime law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

