

JAN 20 2012

A BILL FOR AN ACT

RELATING TO RESIDENTIAL REAL PROPERTY.

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

1 SECTION 1. Section 421J-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Association documents, the most current financial
4 statement of the association, and the minutes of the most recent
5 meeting of the board of directors [~~+~~], other than minutes of
6 executive sessions [~~+~~], shall be made available for examination
7 by any member [~~at no cost, on twenty-four hour loan or during~~
8 ~~reasonable hours~~]:

9 (1) During normal business hours;

10 (2) In hard copy form for a reasonable fee; and

11 (3) In electronic form through a website maintained by the
12 property management company or by the association, if
13 one exists;

14 provided that the association may, but is not required to, make
15 available, in an electronic form, the financial statements of
16 the association."

17 SECTION 2. Section 514A-84.5, Hawaii Revised Statutes, is
18 amended to read as follows:



1 "§514A-84.5 Availability of project documents. (a) An
2 accurate copy of the declaration of condominium property regime,
3 the bylaws of the association of apartment owners, the house
4 rules, if any, the master lease, if any, a sample original
5 conveyance document, all public reports and any amendments
6 thereto, and the annual operating budget shall be kept at the
7 managing agent's office.

8 (b) The managing agent shall [~~provide copies of these~~] make
9 the documents listed in subsection (a) available to owners,
10 prospective purchasers, and their [~~prospective~~] respective agents
11 [~~during normal business hours, upon payment to the managing agent~~
12 of a reasonable charge to defray any administrative or duplicating
13 costs.] for review during normal business hours and in hard copy
14 form for a reasonable fee.

15 (c) The managing agent shall make the documents listed in
16 subsection (a) available to owners in an electronic form through
17 a website maintained by the property management company or by
18 the association, if one exists; provided that:

19 (1) The managing agent shall not make available to any
20 agent or prospective purchaser, in an electronic form,
21 the documents listed in subsection (a); and



1 (2) The managing agent may, but is not required to, make
2 available to owners, in an electronic form, the annual
3 operating budget of the association.

4 [~~(c) In the event that~~] (d) If the project is not managed
5 by a managing agent, the [~~foregoing~~] requirements of subsections
6 (b) and (c) shall be undertaken by [a] the person or entity[~~, if~~
7 ~~any, employed by the association of apartment owners,~~] to whom the
8 association of apartment owners has delegated this function [~~is~~
9 ~~delegated~~]."

10 SECTION 3. Section 514B-152, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~514B-152[~~§~~] **Association records; generally.** (a) The
13 association shall keep financial and other records sufficiently
14 detailed to enable the association to comply with requests for
15 information and disclosures related to resale of units. Except
16 as otherwise provided by law, all financial and other records
17 shall be made reasonably available for examination by any unit
18 owner and the owner's authorized agents. Association records
19 shall be stored on the island on which the association's project
20 is located; provided that if original records, including but not
21 limited to invoices, are required to be sent off-island, copies



1 of the records shall be maintained on the island on which the
2 association's project is located.

3 (b) The association shall make its financial and other
4 records available to owners and their respective agents for
5 review during normal business hours and in hard copy form for a
6 reasonable fee.

7 (c) The association shall make its records available to
8 owners in electronic form through a website maintained by the
9 property management company or by the association, if one
10 exists; provided that:

11 (1) The association shall not make available to any agent,
12 in an electronic form, the financial or other records
13 of the association; and

14 (2) The association may, but is not required to, make
15 available to an owner, in an electronic form, the
16 financial records of the association."

17 SECTION 4. Section 514B-153, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§514B-153 Association records; records to be maintained.**

20 (a) An accurate copy of the declaration, bylaws, house rules,
21 if any, master lease, if any, a sample original conveyance
22 document, all public reports and any amendments thereto, shall



1 be kept at the managing agent's office. The managing agent
2 shall make the documents listed in this subsection available to
3 owners and their respective agents for review during normal
4 business hours and in hard copy form for a reasonable fee.

5 (b) The managing agent shall make the documents listed in
6 subsection (a) available to owners in electronic form through a
7 website maintained by the property management company or by the
8 association, if one exists; provided that:

9 (1) The managing agent shall not make available to any
10 agent, in an electronic form, the documents listed in
11 subsection (a); and

12 (2) The managing agent may, but is not required to, make
13 available to an owner, in an electronic form, the
14 financial records of the association.

15 ~~[(b)]~~ (c) The managing agent or board shall keep, in
16 chronological order, detailed, accurate records ~~[in~~
17 ~~chronological order,]~~ of the receipts and expenditures affecting
18 the common elements, specifying and itemizing the maintenance
19 and repair expenses of the common elements and any other
20 expenses incurred. The managing agent or board shall also keep
21 monthly statements indicating the total current delinquent
22 dollar amount of any unpaid assessments for common expenses.



1 ~~[(e)]~~ (d) Subject to section 514B-152, all records and the
2 vouchers authorizing the payments and statements shall be kept
3 and maintained at the address of the project, or elsewhere
4 within the State as determined by the board.

5 ~~[(d)]~~ (e) The developer or affiliate of the developer,
6 board, and managing agent shall ensure that there is a written
7 contract for managing the operation of the property~~[7]~~
8 ~~expressing~~ that expresses the agreements of all parties~~[7]~~ on
9 matters including but not limited to financial and accounting
10 obligations, services provided, and ~~[any]~~ compensation
11 arrangements, including any subsequent amendments. Copies of
12 the executed contract and any amendments shall be provided to
13 all parties to the contract.

14 ~~[(e)]~~ (f) The managing agent, resident manager, or board
15 shall keep an accurate and current list of members of the
16 association and their current addresses, and the names and
17 addresses of the vendees under an agreement of sale, if any.
18 The list shall be maintained at a place designated by the
19 board~~[7]~~ and a copy shall be available, at cost, to any member
20 of the association as provided in the declaration or bylaws or
21 rules and regulations or, in any case, to any member who
22 furnishes to the managing agent ~~[or]~~, resident manager, or the



1 board a duly executed and acknowledged affidavit stating that
2 the ~~[list]~~ list will:

3 (1) ~~[Will be]~~ Be used by the owner personally and only for
4 the purpose of soliciting votes or proxies~~[7]~~ or for
5 providing information to other owners with respect to
6 association matters; and

7 (2) ~~[Shall not]~~ Not be used by the owner or furnished to
8 anyone else for any other purpose.

9 A board may prohibit commercial solicitations.

10 Where the condominium project or any units within the
11 project are subject to a time share plan under chapter 514E, the
12 association shall only be required to maintain in its records
13 the name and address of the time share association as the
14 representative agent for the individual time share owners unless
15 the association receives a request by a time share owner to
16 maintain in its records the name and address of the time share
17 owner.

18 ~~[(f)]~~ (g) The managing agent or resident manager shall not
19 use or distribute any membership list, including for commercial
20 or political purposes, without the prior written consent of the
21 board.



1 ~~[(g)]~~ (h) All membership lists are the property of the
2 association and any membership lists contained in the managing
3 agent's or resident manager's records are subject to subsections
4 ~~[(e)]~~ (f) and ~~[(f)]~~, (g), and this subsection. A managing
5 agent, resident manager, or board ~~[may]~~ shall not use the
6 information contained in the lists to create any separate list
7 for the purpose of evading the requirements of this section.

8 ~~[(h)]~~ (i) Subsections ~~[(f)]~~ (g) and ~~[(g)]~~ (h) shall not
9 apply to ~~[any]~~ time share ~~[plan]~~ plans regulated under chapter
10 514E.

11 (j) If a project is not managed by a managing agent, the
12 requirements of this section shall be undertaken by the person
13 or entity to whom the association of apartment owners has
14 delegated this function."

15 SECTION 5. Section 514B-154, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) The managing agent shall provide copies of
18 association records maintained pursuant to this section ~~[and~~
19 ~~sections 514B-152 and 514B-153]~~ to owners, prospective
20 purchasers, and their ~~[prospective]~~ respective agents ~~[during~~
21 ~~normal business hours, upon payment to the managing agent of a~~
22 ~~reasonable charge to defray any administrative or duplicating~~



1 ~~ests.]~~ for review during normal business hours and in hard copy
 2 form for a reasonable fee. If the project is not managed by a
 3 managing agent, the [~~foregoing~~] requirements of this section
 4 shall be undertaken by [a] the person or entity[, ~~if any,~~
 5 ~~employed by the association,~~] to whom the association of
 6 apartment owners has delegated this function [~~is delegated~~]."

7 SECTION 6. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on July 1, 2012.

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INTRODUCED BY:

M. H. Khalil
Bilal Khatib
Danley
Jahid
M. H.



Report Title:

Condominiums; Residential Real Property; Associations

Description:

Requires that condominium property managers, associations of apartment owners, and planned community associations make association documents available to owners under reasonable terms, including through a property management company's or association's website, if one exists, and for reasonable costs.

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

