

JAN 20 2012

S.B. NO. 2465

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-121, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Special meetings of the association may be called by
4 the president, a majority of the board, or by a petition to the
5 secretary or managing agent signed by not less than twenty-five
6 per cent of the unit owners as shown in the association's record
7 of ownership; provided that if the secretary or managing agent
8 fails to send out the notices for the special meeting within
9 fourteen days of receipt of the petition, the petitioners shall
10 have the authority to set the time, date, and place for the
11 special meeting and to send out the notices and proxies for the
12 special meeting at the association's expense in accordance with
13 the requirements of the bylaws and of this part; provided
14 further that a special meeting based upon a petition to the
15 secretary or managing agent shall be set no later than sixty
16 days from receipt of the petition[-] and shall allow for
17 adequate time during the meeting for the petitioners to address
18 their concerns."



1 SECTION 2. Section 514B-123, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§514B-123 Association meetings; voting; proxies.** (a) If
4 only one of several owners of a unit is present at a meeting of
5 the association, that owner is entitled to cast all the votes
6 allocated to that unit. If more than one of the owners is
7 present, the votes allocated to that unit may be cast only in
8 accordance with the agreement of a majority in interest of the
9 owners, unless the declaration or bylaws expressly provide
10 otherwise. There is majority agreement if any one of the owners
11 casts the votes allocated to that unit without protest being
12 made by any of the other owners of the unit to the person
13 presiding over the meeting before the polls are closed.

14 (b) Votes allocated to a unit may be cast pursuant to a
15 proxy duly executed by a unit owner. A unit owner may vote by
16 mail or electronic transmission through a duly executed proxy.
17 If a unit is owned by more than one person, each owner of the
18 unit may vote or register protest to the casting of votes by the
19 other owners of the unit through a duly executed proxy. In the
20 absence of protest, any owner may cast the votes allocated to
21 the unit by proxy. A unit owner may revoke a proxy given
22 pursuant to this section only by actual notice of revocation to



1 the secretary of the association or the managing agent. A proxy
2 is void if it purports to be revocable without notice.

3 (c) No votes allocated to a unit owned by the association
4 may be cast for the election or reelection of directors.

5 (d) A proxy, to be valid, shall:

6 (1) Be delivered to the secretary of the association or
7 the managing agent, if any, no later than 4:30 p.m. on
8 the second business day prior to the date of the
9 meeting to which it pertains;

10 (2) Contain at least the name of the association, the date
11 of the meeting of the association, the printed names
12 and signatures of the persons giving the proxy, the
13 unit numbers for which the proxy is given, the names
14 of persons to whom the proxy is given, and the date
15 that the proxy is given; and

16 (3) If it is a standard proxy form authorized by the
17 association, contain boxes wherein the owner has
18 indicated that the proxy is given:

19 (A) For quorum purposes only;

20 (B) To the individual whose name is printed on a line
21 next to this box;



1 (C) To the board as a whole and that the vote is to
2 be made on the basis of the preference of the
3 majority of the directors present at the meeting;
4 or

5 (D) To those directors present at the meeting with
6 the vote to be shared with each director
7 receiving an equal percentage.

8 The proxy form shall also contain a box wherein the
9 owner may indicate that the owner wishes to obtain a
10 copy of the annual audit report required by section
11 514B-150.

12 (e) A proxy shall only be valid for the meeting to which
13 the proxy pertains and its adjournments, may designate any
14 person as proxy, and may be limited as the unit owner desires
15 and indicates; provided that no proxy shall be irrevocable
16 unless coupled with a financial interest in the unit.

17 (f) A copy, facsimile telecommunication, or other reliable
18 reproduction of a proxy may be used in lieu of the original
19 proxy for any and all purposes for which the original proxy
20 could be used; provided that any copy, facsimile
21 telecommunication, or other reproduction shall be a complete
22 reproduction of the entire original proxy.



1 (g) Nothing in this section shall affect the holder of any
2 proxy under a first mortgage of record encumbering a unit or
3 under an agreement of sale affecting a unit.

4 (h) With respect to the use of association funds to
5 distribute proxies:

6 (1) Any board that intends to use association funds to
7 distribute proxies, including the standard proxy form
8 referred to in subsection (d)(3), shall first post
9 notice of its intent to distribute proxies in
10 prominent locations within the project at least
11 twenty-one days before its distribution of proxies.

12 If the board receives within seven days of the posted
13 notice a request by any owner for use of association
14 funds to solicit proxies accompanied by a statement,
15 the board shall mail to all owners either:

16 (A) A proxy form containing the names of all owners
17 who have requested the use of association funds
18 for soliciting proxies accompanied by their
19 statements; or

20 (B) A proxy form containing no names, but accompanied
21 by a list of names of all owners who have

1 requested the use of association funds for
2 soliciting proxies and their statements.

3 The statement, which shall be limited to black text on
4 white paper, shall not exceed one single-sided
5 8-1/2" x 11" page, indicating the owner's
6 qualifications to serve on the board or reasons for
7 wanting to receive proxies; and

8 (2) A board or member of the board may use association
9 funds to solicit proxies as part of the distribution
10 of proxies. If a member of the board, as an
11 individual, seeks to solicit proxies using association
12 funds, the board member shall proceed as a unit owner
13 under paragraph (1).

14 (i) No managing agent or resident manager, or their
15 employees, shall solicit, for use by the managing agent or
16 resident manager, any proxies from any unit owner of the
17 association that retains the managing agent or employs the
18 resident manager, nor shall the managing agent or resident
19 manager cast any proxy vote at any association meeting except
20 for the purpose of establishing a quorum.

21 (j) No board shall adopt any rule prohibiting the
22 solicitation of proxies or distribution of materials relating to

1 association matters on the common elements by unit owners;
2 provided that a board may adopt rules regulating reasonable
3 time, place, and manner of the solicitations or distributions,
4 or both.

5 (k) No board shall adopt any rules regarding association
6 meetings that require more than a majority of the quorum to
7 change those rules."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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

11

INTRODUCED BY: Carol Johnson



S.B. NO. 2465

Report Title:

Condominiums; Association Meetings

Description:

Requires that petitioners have adequate time to address concerns at a requested special association meeting. Prohibits a board to adopt any rule for association meetings that would require a majority of the quorum vote to change.

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

