

JAN 18 2013

A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

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

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

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

15 (b) Votes allocated to a unit may be cast pursuant to a
16 proxy duly executed by a unit owner. A unit owner may vote by
17 mail or electronic transmission through a duly executed proxy.
18 If a unit is owned by more than one person, each owner of the



1 unit may vote or register protest to the casting of votes by the
2 other owners of the unit through a duly executed proxy. In the
3 absence of protest, any owner may cast the votes allocated to
4 the unit by proxy. A unit owner may revoke a proxy given
5 pursuant to this section only by actual notice of revocation to
6 the secretary of the association or the managing agent. A proxy
7 is void if it purports to be revocable without notice.

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

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

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

15 (2) Contain at least the name of the association, the
16 date of the meeting of the association, the printed names
17 and signatures of the persons giving the proxy, the unit
18 numbers for which the proxy is given, the names of
19 persons to whom the proxy is given, and the date that the
20 proxy is given;

21 (3) Contain a list of clearly identified matters that
22 are expected to come for a vote in the meeting and



1 provide a place or places where the unit owner may
2 specify how the proxy is to be voted; and
3 [~~3~~] (4) If it is a standard proxy form authorized by
4 the association, contain boxes wherein the owner has
5 indicated that the proxy is given:

6 (A) For quorum purposes only; or

7 (B) To the individual whose name is printed on a line
8 next to this box; or

9 (C) To the board as a whole and that the vote is to
10 be made on the basis of the preference of the majority of
11 the directors present at the meeting; or

12 (D) To those directors present at the meeting with
13 the vote to be shared with each director receiving an
14 equal percentage[~~r~~] ; or

15 (E) In accordance with directives given by the unit
16 owner in the place or places provided by subparagraph
17 (d) (3).

18 The proxy holder shall vote the proxy strictly in accordance
19 with the directives as given by the owner, or failing such
20 direction, such proxy shall be voted as an abstention. The
21 proxy form shall also contain a box wherein the owner may



1 indicate that the owner wishes to obtain a copy of the annual
2 audit report required by section 514B-150.

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

8 (f) A copy, facsimile telecommunication, or other reliable
9 reproduction of a proxy may be used in lieu of the original
10 proxy for any and all purposes for which the original proxy
11 could be used; provided that any copy, facsimile
12 telecommunication, or other reproduction shall be a complete
13 reproduction of the entire original proxy.

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

17 (h) With respect to the use of association funds to
18 distribute proxies:

19 (1) Any board that intends to use association funds to
20 distribute proxies, including the standard proxy form
21 referred to in subsection (d)(3), shall first post
22 notice of its intent to distribute proxies in



1 prominent locations within the project at least
2 twenty-one days before its distribution of proxies.
3 If the board receives within seven days of the posted
4 notice a request by any owner for use of association
5 funds to solicit proxies accompanied by a statement,
6 the board shall mail to all owners either:

7 (A) A proxy form containing the names of all owners
8 who have requested the use of association funds
9 for soliciting proxies accompanied by their
10 statements; or

11 (B) A proxy form containing no names, but accompanied
12 by a list of names of all owners who have
13 requested the use of association funds for
14 soliciting proxies and their statements.

15 The statement, which shall be limited to black text on
16 white paper, shall not exceed one single-sided
17 8-1/2" x 11" page, indicating the owner's
18 qualifications to serve on the board or reasons for
19 wanting to receive proxies; and

20 (2) A board or member of the board may use association
21 funds to solicit proxies as part of the distribution
22 of proxies. If a member of the board, as an



1 individual, seeks to solicit proxies using association
2 funds, the board member shall proceed as a unit owner
3 under paragraph (1).

4 (i) No managing agent or resident manager, or their
5 employees, shall solicit, for use by the managing agent or
6 resident manager, any proxies from any unit owner of the
7 association that retains the managing agent or employs the
8 resident manager, nor shall the managing agent or resident
9 manager cast any proxy vote at any association meeting except
10 for the purpose of establishing a quorum.

11 (j) No board shall adopt any rule prohibiting the
12 solicitation of proxies or distribution of materials relating to
13 association matters on the common elements by unit owners;
14 provided that a board may adopt rules regulating reasonable
15 time, place, and manner of the solicitations or distributions,
16 or both."

17 SECTION 2. Statutory material to be repealed is
18 bracketed and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its
20 approval.

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INTRODUCED BY: *James P. Slon*



S.B. NO. 296

Report Title:

Condominium Association; Proxy Voting

Description:

Requires proxy holders to vote strictly in accordance with owner's directives. Permits owners to indicate choices for voting in meeting for which proxy is given. Requires notice of matters to be voted on, or persons to be voted for, and place for specifying how proxy is to be voted.

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

