

JAN 18 2013

S.B. NO. 611

A BILL FOR AN ACT

RELATING TO RESIDENTIAL REAL PROPERTY.

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

1 SECTION 1. Chapter 421J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§421J- Management fees. Fees of persons or entities
5 hired by an association to manage the planned community shall be
6 not more than an amount that reflects a reasonable value for
7 management services rendered by the hired person or entity."

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

10 "(a) Association documents, the most current financial
11 statement of the association, and the minutes of the most recent
12 meeting of the board of directors [+(], other than minutes of
13 executive sessions[+], shall be made available for examination
14 by any member [~~at no cost, on twenty four hour loan or during~~
15 ~~reasonable hours.~~]:

16 (1) During normal business hours;

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



1 (3) As an electronic document as defined in section
2 502-121 through a website maintained by the property
3 management company or by the association, if one
4 exists;
5 provided that the association may, but is not required to, make
6 available the financial statements of the association as an
7 electronic document as defined in section 502-121."

8 SECTION 3. Section 514A-84.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§514A-84.5 Availability of project documents.** (a) An
11 accurate copy of the declaration of condominium property regime,
12 the bylaws of the association of apartment owners, the house
13 rules, if any, the master lease, if any, a sample original
14 conveyance document, all public reports and any amendments
15 thereto, and the annual operating budget shall be kept at the
16 managing agent's office.

17 (b) The managing agent shall [~~provide copies of these~~] make
18 the documents listed in subsection (a) available to owners,
19 prospective purchasers, and their [~~prospective~~] respective agents
20 [~~during normal business hours, upon payment to the managing agent~~
21 ~~of a reasonable charge to defray any administrative or duplicating~~



1 ~~costs.]~~ for review during normal business hours and in hard copy
2 form for a reasonable fee.

3 (c) The managing agent shall make the documents listed in
4 subsection (a) available to owners as an electronic document as
5 defined in section 502-121 through a website maintained by the
6 property management company or by the association, if one
7 exists, except that the managing agent may, but is not required
8 to, make available to owners the annual operating budget of the
9 association as an electronic document as defined in section
10 502-121. The managing agent shall not make available to any
11 agent or prospective purchaser the documents listed in
12 subsection (a) as an electronic document as defined in section
13 502-121.

14 ~~[(e)]~~ (d) ~~[In the event that]~~ If the project is not managed
15 by a managing agent, the ~~[foregoing]~~ requirements of subsections
16 (b) and (c) shall be undertaken by [a] the person or entity~~[, if~~
17 ~~any, employed by the association of apartment owners,]~~ to whom the
18 association of apartment owners has delegated this function ~~[is~~
19 ~~delegated]."~~

20 SECTION 4. Section 514B-152, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [{}\$514B-152 [{}] Association records; generally. (a) The
2 association shall keep financial and other records sufficiently
3 detailed to enable the association to comply with requests for
4 information and disclosures related to resale of units. Except
5 as otherwise provided by law, all financial and other records
6 shall be made reasonably available for examination by any unit
7 owner and the owner's authorized agents. Association records
8 shall be stored on the island on which the association's project
9 is located; provided that if original records, including but not
10 limited to invoices, are required to be sent off-island, copies
11 of the records shall be maintained on the island on which the
12 association's project is located.

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

17 The managing agent may, but is not required to, make
18 available to owners the annual operating budget of the
19 association as an electronic document as defined in section
20 502-121.

21 (c) Notwithstanding chapter 489E to the contrary, the
22 association shall make its records available to owners as an



1 electronic document as defined in section 502-121, through a
2 website maintained by the property management company or by the
3 association, if one exists, except that the association may, but
4 is not required to, make available to owners the financial
5 records of the association as an electronic document as defined
6 in section 502-121. The association shall not make available to
7 any agent the financial or other records of the association as
8 an electronic document as defined in section 502-121."

9 SECTION 5. Section 514B-153, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§514B-153 Association records; records to be maintained.**

12 (a) An accurate copy of the declaration, bylaws, house rules,
13 if any, master lease, if any, a sample original conveyance
14 document, all public reports and any amendments thereto, and the
15 annual operating budget shall be kept at the managing agent's
16 office. The managing agent shall make the documents listed in
17 this subsection available to owners and their respective agents
18 for review during normal business hours and in hard copy form
19 for a reasonable fee.

20 (b) The managing agent shall make the documents listed in
21 subsection (a) available to owners as an electronic document as
22 defined in section 502-121, through a website maintained by the



1 property management company or by the association, if one
2 exists, except that the managing agent may, but is not required
3 to, make available to owners the financial records and annual
4 operating budget of the association as an electronic document as
5 defined in section 502-121. The managing agent shall not make
6 available to any agent the documents listed in subsection (a) as
7 an electronic document as defined in section 502-121.

8 ~~[(b)]~~ (c) The managing agent or board shall keep, in
9 chronological order, detailed, accurate records ~~[in~~
10 ~~chronological order,~~] of the receipts and expenditures affecting
11 the common elements, specifying and itemizing the maintenance
12 and repair expenses of the common elements and any other
13 expenses incurred. The managing agent or board shall also keep
14 monthly statements indicating the total current delinquent
15 dollar amount of any unpaid assessments for common expenses.

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

20 ~~[(d)]~~ (e) The developer or affiliate of the developer,
21 board, and managing agent shall ensure that there is a written
22 contract for managing the operation of the property[-



1 ~~expressing~~ that expresses the agreements of all parties~~[7]~~ on
2 matters including but not limited to financial and accounting
3 obligations, services provided, and ~~[any]~~ compensation
4 arrangements, including any subsequent amendments. Copies of
5 the executed contract and any amendments shall be provided to
6 all parties to the contract.

7 ~~[(e)]~~ (f) The managing agent, resident manager, or board
8 shall keep an accurate and current list of members of the
9 association and their current addresses, and the names and
10 addresses of the vendees under an agreement of sale, if any.
11 The list shall be maintained at a place designated by the
12 board~~[7]~~ and a copy shall be available, at cost, to any member
13 of the association as provided in the declaration or bylaws or
14 rules and regulations or, in any case, to any member who
15 furnishes to the managing agent ~~[or]~~, resident manager, or the
16 board a duly executed and acknowledged affidavit stating that
17 the list:

18 (1) ~~[Will be]~~ Is to be used by the owner personally and
19 only for the purpose of soliciting votes or proxies or
20 providing information to other owners with respect to
21 association matters; and



1 (2) Shall not be used by the owner or furnished to anyone
2 else for any other purpose.

3 A board may prohibit commercial solicitations.

4 Where the condominium project or any units within the
5 project are subject to a time share plan under chapter 514E, the
6 association shall only be required to maintain in its records
7 the name and address of the time share association as the
8 representative agent for the individual time share owners unless
9 the association receives a request by a time share owner to
10 maintain in its records the name and address of the time share
11 owner.

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

16 [~~(g)~~] (h) All membership lists are the property of the
17 association and any membership lists contained in the managing
18 agent's or resident manager's records are subject to subsections
19 [~~(e)~~] (f) and [~~(f)~~], (g), and this subsection. A managing
20 agent, resident manager, or board [~~may~~] shall not use the
21 information contained in the lists to create any separate list
22 for the purpose of evading this section.



1 ~~[(h)]~~ (i) Subsections ~~[(f)]~~ (g) and ~~[(g)]~~ (h) shall not
2 apply to [any] time share ~~[plan]~~ plans regulated under chapter
3 514E.

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

8 SECTION 6. Section 514B-154, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) The managing agent shall provide copies of
11 association records maintained pursuant to this section and
12 sections 514B-152 and 514B-153 to owners, prospective
13 purchasers, and their ~~[prospective]~~ respective agents ~~[during~~
14 ~~normal business hours, upon payment to the managing agent of a~~
15 ~~reasonable charge to defray any administrative or duplicating~~
16 ~~costs.]~~ for review during normal business hours and in hard copy
17 form for a reasonable fee.

18 The managing agent may, but is not required to, make
19 available to owners the annual operating budget of the
20 association as an electronic document as defined in section
21 502-121.



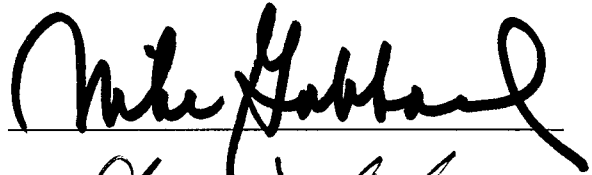
1 If the project is not managed by a managing agent, the
 2 [foregoing] requirements of this section shall be undertaken by
 3 [a] the person or entity [~~, if any, employed by the association,~~]
 4 to whom the association of apartment owners has delegated this
 5 function [~~is delegated~~]."

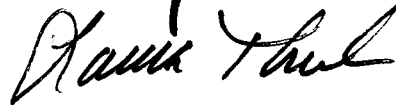
6 SECTION 7. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

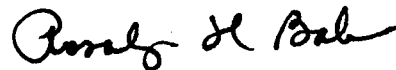
8 SECTION 8. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

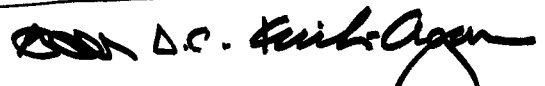


















S.B. NO. 611

Report Title:

Condominiums; Residential Real Property; Associations

Description:

Restricts management fees to an amount that reflects a reasonable value for services rendered. 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.

