
A BILL FOR AN ACT

RELATING TO COMMON INTEREST COMMUNITIES.

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

1 SECTION 1. Section 421J-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~§421J-3~~+~~ **Board of directors.** (a) Every member of
4 the board of directors shall be a member of the association.
5 However, a developer may appoint or elect directors pursuant to
6 any special voting rights or power of appointment reserved to
7 the master developer.

8 (b) The board of directors shall be composed of the number
9 and group of persons specified in the association documents.
10 There shall not be more than one representative on the board of
11 directors from any one unit that is owned by any person other
12 than the master developer or declarant.

13 (c) No person shall be elected as a member of a board of
14 directors for more than two consecutive four-year terms;
15 provided that this subsection shall not be construed to:

16 (1) Limit the service of a holdover member if no person
17 seeks candidacy for the holdover member's position; or



1 (2) Prohibit the election of a former member to the board;
 2 provided that, at the time of election, the former
 3 member has not served on the board for a period of at
 4 least one year."

5 SECTION 2. Section 514A-82, Hawaii Revised Statutes, is
 6 amended by amending subsection (b) to read as follows:

7 "(b) In addition to the requirements of subsection (a), the
 8 bylaws shall be consistent with the following provisions:

9 (1) At any regular or special meeting of the apartment
 10 owners, any one or more members of the board of
 11 directors may be removed by the apartment owners and
 12 successors shall then and there be elected for the
 13 remainder of the term to fill the vacancies thus
 14 created. The removal and replacement shall be by a
 15 vote of a majority of the apartment owners and,
 16 otherwise, in accordance with all applicable
 17 requirements and procedures in the bylaws for the
 18 removal and replacement of directors. If removal and
 19 replacement is to occur at a special association
 20 meeting, the call for the meeting shall be by the
 21 president or by a petition to the secretary or



1 managing agent signed by not less than twenty-five per
2 cent of the apartment owners as shown in the
3 association's record of ownership; provided that if
4 the secretary or managing agent shall fail to send out
5 the notices for the special meeting within fourteen
6 days of receipt of the petition, then the petitioners
7 shall have the authority to set the time, date, and
8 place for the special meeting and to send out the
9 notices for the special meeting in accordance with the
10 requirements of the bylaws. Except as otherwise
11 provided in this section, the meeting for the removal
12 and replacement from office of directors shall be
13 scheduled, noticed, and conducted in accordance with
14 the bylaws of the association;

15 (2) The bylaws may be amended at any time by the vote or
16 written consent of sixty-five per cent of all
17 apartment owners; provided that:

18 (A) Each one of the particulars set forth in this
19 subsection shall be embodied in the bylaws
20 always; and



1 (B) Any proposed bylaws with the rationale for the
2 proposal may be submitted by the board of
3 directors or by a volunteer apartment owners'
4 committee. If submitted by that committee, the
5 proposal shall be accompanied by a petition
6 signed by not less than twenty-five per cent of
7 the apartment owners as shown in the
8 association's record of ownership. The proposed
9 bylaws, rationale, and ballots for voting on any
10 proposed bylaw shall be mailed by the board of
11 directors to the owners at the expense of the
12 association for vote or written consent without
13 change within thirty days of the receipt of the
14 petition by the board of directors. The vote or
15 written consent required to adopt the proposed
16 bylaw shall not be less than sixty-five per cent
17 of all apartment owners; provided that the vote
18 or written consent must be obtained within three
19 hundred sixty-five days after mailing for a
20 proposed bylaw submitted by either the board of
21 directors or a volunteer apartment owners'



1 committee. If the bylaw is duly adopted, then
2 the board shall cause the bylaw amendment to be
3 recorded in the bureau of conveyances or filed in
4 the land court, as the case may be. The
5 volunteer apartment owners' committee shall be
6 precluded from submitting a petition for a
7 proposed bylaw that is substantially similar to
8 that which has been previously mailed to the
9 owners within one year after the original
10 petition was submitted to the board.

11 This paragraph shall not preclude any apartment owner
12 or voluntary apartment owners' committee from
13 proposing any bylaw amendment at any annual
14 association meeting;

15 (3) Notices of association meetings, whether annual or
16 special, shall be sent to each member of the
17 association of apartment owners at least fourteen days
18 prior to the meeting and shall contain at least:

- 19 (A) The date, time, and place of the meeting;
- 20 (B) The items on the agenda for the meeting; and



1 (C) A standard proxy form authorized by the
2 association, if any;

3 (4) No resident manager or managing agent shall solicit,
4 for use by the manager or managing agent, any proxies
5 from any apartment owner of the association of owners
6 that employs the resident manager or managing agent,
7 nor shall the resident manager or managing agent cast
8 any proxy vote at any association meeting except for
9 the purpose of establishing a quorum. Any board of
10 directors that intends to use association funds to
11 distribute proxies, including the standard proxy form
12 referred to in paragraph (3), shall first post notice
13 of its intent to distribute proxies in prominent
14 locations within the project at least thirty days
15 prior to its distribution of proxies; provided that if
16 the board receives within seven days of the posted
17 notice a request by any owner for use of association
18 funds to solicit proxies accompanied by a statement,
19 the board shall mail to all owners either:

20 (A) A proxy form containing the names of all owners
21 who have requested the use of association funds



1 for soliciting proxies accompanied by their
2 statements; or

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

7 The statement shall not exceed one hundred words,
8 indicating the owner's qualifications to serve on the
9 board and reasons for wanting to receive proxies;

10 (5) A director who has a conflict of interest on any issue
11 before the board shall disclose the nature of the
12 conflict of interest prior to a vote on that issue at
13 the board meeting, and the minutes of the meeting
14 shall record the fact that a disclosure was made;

15 (6) The apartment owners shall have the irrevocable right,
16 to be exercised by the board of directors, to have
17 access to each apartment from time to time during
18 reasonable hours as may be necessary for the operation
19 of the property or for making emergency repairs
20 therein necessary to prevent damage to the common
21 elements or to another apartment or apartments;



- 1 (7) An owner shall not act as an officer of an association
2 and an employee of the managing agent employed by the
3 association;
- 4 (8) An association's employees shall not engage in selling
5 or renting apartments in the condominium in which they
6 are employed except association-owned units, unless
7 such activity is approved by an affirmative vote of
8 sixty-five per cent of the membership;
- 9 (9) The board of directors shall meet at least once a
10 year. Whenever practicable, notice of all board
11 meetings shall be posted by the resident manager or a
12 member of the board in prominent locations within the
13 project seventy-two hours prior to the meeting or
14 simultaneously with notice to the board of directors;
- 15 (10) Directors shall not expend association funds for their
16 travel, directors' fees, and per diem, unless owners
17 are informed and a majority approve of these expenses;
- 18 (11) Associations at their own expense shall provide all
19 board members with a current copy of the association's
20 declaration, bylaws, house rules, and, annually, a
21 copy of this chapter with amendments;



- 1 (12) The directors may expend association funds, which
2 shall not be deemed to be compensation to the
3 directors, to educate and train themselves in subject
4 areas directly related to their duties and
5 responsibilities as directors; provided that the
6 approved annual operating budget shall include these
7 expenses as separate line items. These expenses may
8 include registration fees, books, videos, tapes, other
9 educational materials, and economy travel expenses.
10 Except for economy travel expenses within the State,
11 all other travel expenses incurred under this
12 subsection shall be subject to the requirements of
13 paragraph (10);
- 14 (13) A lien created pursuant to section 514A-90 may be
15 enforced by the association in any manner permitted by
16 law, including nonjudicial or power of sale
17 foreclosure procedures authorized by chapter 667;
18 [and]
- 19 (14) If the bylaws provide for cumulative voting by the
20 owners, the owners may so vote if an owner gives



1 notice of the owner's intent to cumulatively vote
2 before voting commences [-]; and

3 (15) No person shall be elected as a member of a board of
4 directors of a condominium for more than two
5 consecutive four-year terms; provided that this
6 paragraph shall not be construed to:

7 (A) Limit the service of a holdover member if no
8 person seeks candidacy for the holdover member's
9 position; or

10 (B) Prohibit the election of a former member to the
11 board; provided that, at the time of election,
12 the former member has not served on the board for
13 a period of at least one year.

14 The provisions of this subsection shall be deemed incorporated
15 into the bylaws of all condominium projects existing as of
16 January 1, 1988, and all condominium projects created after that
17 date."

18 SECTION 3. Section 514B-107, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§514B-107 Board; limitations.** (a) Members of the board
21 shall be unit owners or co-owners, vendees under an agreement of



1 sale, a trustee of a trust which owns a unit, or an officer,
2 partner, member, or other person authorized to act on behalf of
3 any other legal entity which owns a unit. There shall not be
4 more than one representative on the board from any one unit.

5 (b) No resident manager or employee of a condominium shall
6 serve on its board.

7 (c) An owner shall not act as an officer of an association
8 and an employee of the managing agent retained by the
9 association. Any owner who is a board member of an association
10 and an employee of the managing agent retained by the
11 association shall not participate in any discussion regarding a
12 management contract at a board meeting and shall be excluded
13 from any executive session of the board where the management
14 contract or the property manager will be discussed.

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



1 (e) Associations at their own expense shall provide all
2 board members with a current copy of the association's
3 declaration, bylaws, house rules, and, annually, a copy of this
4 chapter with amendments.

5 (f) The directors may expend association funds, which
6 shall not be deemed to be compensation to the directors, to
7 educate and train themselves in subject areas directly related
8 to their duties and responsibilities as directors; provided that
9 the approved annual operating budget shall include these
10 expenses as separate line items. These expenses may include
11 registration fees, books, videos, tapes, other educational
12 materials, and economy travel expenses. Except for economy
13 travel expenses within the State, all other travel expenses
14 incurred under this subsection shall be subject to the
15 requirements of subsection (d).

16 (g) No person shall be elected as a member of a board of
17 directors for more than two consecutive four-year terms;
18 provided that this subsection shall not be construed to:

19 (1) Limit the service of a holdover member if no person
20 seeks candidacy for the holdover member's position; or



1 (2) Prohibit the election of a former member to the board;
 2 provided that, at the time of election, the former
 3 member has not served on the board for a period of at
 4 least one year."

5 SECTION 4. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval;
 8 provided that members of a board of directors subject to this
 9 Act who have served for more than two consecutive four-year
 10 terms may continue to serve until the next regularly scheduled
 11 election of directors.

INTRODUCED BY:

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H.B. NO. 2588

Report Title:

Condominium Property Regimes; Board of Directors; Term Limits

Description:

Establishes term limits on board of director members for planned community associations and condominiums. Establishes exceptions to term limits.

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

