

JAN 25 2017

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514A-3, Hawaii Revised Statutes, is
2 amended by amending the definitions of "common elements" and
3 "limited common elements" to read as follows:

4 "Common elements", unless otherwise provided in the
5 declaration, means and includes:

- 6 (1) The land included in the condominium property regime,
7 whether leased or in fee simple;
- 8 (2) The foundations, columns, girders, beams, supports,
9 main walls, roofs, halls, corridors, lobbies, stairs,
10 stairways, fire escapes, and entrances and exits of
11 the building or buildings;
- 12 (3) The basements, flat roofs, yards, gardens,
13 recreational facilities, parking areas, and storage
14 spaces;
- 15 (4) The premises for the lodging or use of janitors and
16 other persons employed for the operation of the
17 property;



- 1 (5) Central and appurtenant installations for services
2 such as power, light, gas, hot and cold water,
3 heating, refrigeration, air conditioning, and
4 incinerators;
- 5 (6) The elevators, escalators, tanks, pumps, motors, fans,
6 compressors, ducts, and in general all apparatus and
7 installations existing for common use;
- 8 (7) Such facilities as may be designated as common
9 elements in the declaration; and
- 10 (8) All other parts of the property necessary or
11 convenient to its existence, maintenance, and safety,
12 or normally in common use[-],

13 provided that the part of the property is used and benefits all
14 apartment owners, their tenants, or visitors to the apartment
15 owners or their tenants.

16 "Limited common elements" means and includes [~~those common~~
17 ~~elements designated in the declaration as reserved for the use of~~
18 ~~a certain apartment or certain apartments to the exclusion of the~~
19 ~~other apartments; provided that no amendment of the declaration~~
20 ~~affecting any of the limited common elements shall be effective~~
21 ~~without the consent of the owner or owners of the apartment or~~



1 ~~apartments for the use of which such limited common elements are~~
2 ~~reserved.]~~ those elements that are used and benefit only certain
3 apartment owners, their tenants, or visitors to those apartment
4 owners or their tenants."

5 SECTION 2. Section 514A-82.2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§514A-82.2 Restatement of declaration and bylaws. (a)
8 Notwithstanding any other provision of this chapter or of any
9 other statute or instrument, an association of apartment owners
10 may at any time restate the declaration of condominium property
11 regime of the project or the bylaws of the association to set
12 forth all amendments thereof by a ~~[resolution adopted by the board~~
13 ~~of directors.]~~ vote or written consent of the apartment owners;
14 provided that no vote or written consent shall be required for
15 amendments made pursuant to this chapter with regard to a
16 determination of the common elements and the limited common
17 elements.

18 (b) An association of apartment owners may at any time
19 restate the declaration of condominium property regime of the
20 project or the bylaws of the association to amend the declaration
21 or bylaws as may be required to conform with the provisions of



1 this chapter or of any other statute, ordinance, rule or
2 regulation enacted by any governmental authority, by a [~~resolution~~
3 ~~adopted by the board of directors, and the restated declaration or~~
4 ~~bylaws shall be as fully effective for all purposes as if adopted~~
5 ~~by the]~~ vote or written consent of the apartment owners; provided
6 that any declaration of condominium property regime or bylaws
7 restated pursuant to this subsection shall identify each portion
8 so restated and shall contain a statement that those portions have
9 been restated solely for purposes of information and convenience,
10 identifying the statute, ordinance, rule, or regulation
11 implemented by the amendment, and that in the event of any
12 conflict, the restated declaration or bylaws shall be subordinate
13 to the cited statute, ordinance, rule, or regulation.

14 (c) Upon [~~the adoption of a resolution]~~ vote or written
15 consent of the apartment owners pursuant to subsection (a) or (b),
16 the restated declaration of condominium property regime or bylaws
17 shall set forth all of the operative provisions of the declaration
18 of condominium property regime or bylaws, as amended, together
19 with a statement that the restated declaration of condominium
20 property regime or bylaws correctly sets forth without change the
21 corresponding provisions of the declaration of condominium



1 property regime or bylaws, as amended, and that the restated
2 declaration of condominium property regime or bylaws supersede the
3 original declaration of condominium property regime or bylaws and
4 all prior amendments thereto.

5 (d) The restated declaration of condominium property regime
6 or bylaws shall be recorded in the manner provided in section
7 514A-11, 514A-82, or both, and upon recordation shall supersede
8 the original declaration of condominium property regime or bylaws
9 and all prior amendments thereto; provided that in the event of
10 any conflict, the restated declaration of condominium property
11 regime or bylaws shall be subordinate to the original declaration
12 of condominium property regime or bylaws and all prior amendments
13 thereto[-], except with regard to a determination of the common
14 elements and the limited common elements."

15 SECTION 3. Section 514A-83.5, Hawaii Revised Statutes, is
16 amended by amending subsections (c) and (d) to read as follows:

17 "(c) Financial statements, general ledgers, the accounts
18 receivable ledger, accounts payable ledgers, check ledgers,
19 insurance policies, contracts, and invoices of the association of
20 apartment owners for the duration those records are kept by the
21 association and delinquencies of ninety days or more shall be



1 available for examination by apartment owners at convenient hours
2 at a place designated by the board; provided that:

3 (1) The board may require owners to furnish to the
4 association a one-time, duly executed and acknowledged
5 affidavit stating that the information is requested in
6 good faith for the protection of the interests of the
7 association, or its members, or both; and

8 (2) Owners pay for administrative costs in excess of eight
9 hours per year.

10 Copies of these items shall be provided to any owner upon the
11 owner's request; provided that the owner pays a reasonable fee for
12 duplication, postage, stationery, and other administrative costs
13 associated with handling the request.

14 (d) Owners shall also be permitted to view proxies, tally
15 sheets, ballots, owners' check-in lists, and the certificate of
16 election for a period of thirty days following any association
17 meeting; provided:

18 (1) That the board may require owners to furnish to the
19 association a one-time, duly executed and acknowledged
20 affidavit stating that the information is requested in



1 good faith for the protection of the interest of the
2 association or its members or both; and

3 (2) That owners pay for administrative costs in excess of
4 eight hours per year.

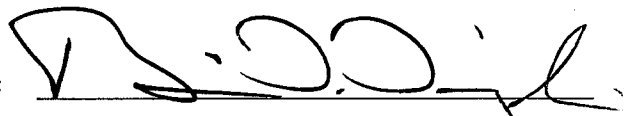
5 Proxies and ballots may be destroyed following the thirty-day
6 period. Copies of tally sheets, owners' check-in lists, and the
7 certificates of election from the most recent association meeting
8 shall be provided to any owner upon the owner's request; provided
9 that the owner pay a reasonable fee for duplicating, postage,
10 stationery, and other administrative costs associated with
11 handling the request."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

15

INTRODUCED BY:


by request



S.B. NO. 1133

Report Title:

Condominiums; Common Elements; Limited; Management

Description:

Redefines "common elements" and "limited common elements" for condominium property regimes. Makes statutory definitions of "common elements" and "limited common elements" supersede the necessity of restating the declaration and bylaws. Requires a vote or written consent of the owners, rather than the board of directors, when restating the declaration and bylaws. Limits the board of directors to requiring the submission of affidavits only once, when owners request certain association documents.

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

